

## Exhibit F

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April 27, 2018

**VIA EMAIL (louis.boston@uspto.gov)**

Louis Boston  
USPTO FOIA Officer  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

*Re: Freedom of Information Request No. FP-18-00014*

Dear Mr. Boston:

I write in response to your letter of April 17, 2018, and thank you for the information you provided regarding the PTO's partial fee estimate for the above-referenced FOIA request filed by my client, Gilbert P. Hyatt. In particular, this letter responds to your request that Mr. Hyatt "provide a meaningful description of how you wish to limit the scope of your request no later than April 27, 2018." I have every expectation that this response will enable you to provide a final fee estimate and allow us all to move on the actual carrying out the FOIA request and production of responsive documents.

As you know, Mr. Hyatt's request contained eight subparts. By this letter, Mr. Hyatt is narrowing one of them.

### **Subpart One**

Subpart one is narrowed as follows:

All records concerning Mr. Hyatt or his patent applications created by, sent by, or received by (a) Diego Gutierrez during 2012 and 2013 or (b) Gregory Morse from and including 2013 through 2018, excluding (1) email attachments, (2) documents contained in the file histories of Mr. Hyatt's applications, and (3) drafts of documents contained in the file histories of Mr. Hyatt's applications.

Louis Boston  
April 27, 2018  
Page 2

Copies of all Performance Appraisal Plans for, and signed by, Examiner Walter Briney for fiscal years 2013, 2014, 2015, 2016, 2017, and 2018.

As provided in Mr. Hyatt's original request, this subpart continues to include without limitation all responsive records from any instant messaging, text messaging, or similar communications system used, with or without PTO authorization, by Art Unit 2615 personnel.

We also request that your processing of this subpart begin with Mr. Gutierrez's records, before moving on to Mr. Morse's.

The other general terms applicable to this subpart are the same as laid out in our initial request, and I reproduce them here for your convenience (striking out several portions that are no longer applicable to the request, as narrowed):

**Relevant search terms** for all of these requests include: "Gilbert P. Hyatt", "Gilbert Hyatt", "Hyatt", "Gil", possessive forms of the preceding terms, "Bulk Filer", "Bulk Filers", "Submarine", "Submariner", "Submariners", "2615", and "Team Exam Six".

~~**Requests Include Records of Personnel:** Each request for records from a PTO office or other organizational unit includes without limitation responsive records created, obtained, or maintained by personnel of that office or unit.~~

~~**Identifying Records Responsive to Request 1:** Because Art Unit 2615 is in large part devoted to processing Mr. Hyatt's patent applications, many records responsive to Request 1 (i.e., that concern Mr. Hyatt or his patent applications) will not refer directly to Mr. Hyatt using the search terms identified above or any other ascertainable set of search terms. Accordingly, keyword searching will be inadequate to identify records responsive to Request 1. To reasonably identify responsive records for that Request, a FOIA Officer should directly review records created, obtained, or maintained by Art Unit 2615. To provide the greatest likelihood of identifying responsive records, this review should begin with records created, obtained, or maintained by the head of Art Unit 2615, Gregory Morse.~~

**Rolling Production:** I request rolling production of responsive documents. In other words, please produce responsive records in batches, as they are identified.

**Index of Withheld Records:** In the interests of efficiency and furthering the purposes of the Freedom of Information Act and Privacy Act, I request that you maintain and produce, on a rolling basis, an index that identifies any records withheld, in whole or in part, and the statutory basis of the withholding.

Louis Boston  
April 27, 2018  
Page 3

**Items Determined Not To Be Agency Records:** I request that you identify to me any otherwise responsive records withheld on the basis that they are not agency records.

**Preservation Requirement:** Pursuant to 37 C.F.R. § 102.3(d), the PTO “shall preserve...copies of all requested records” and “shall not dispose of records while they are the subject of a pending request, appeal, or lawsuit under FOIA.” 37 C.F.R. § 102.3(d).

### **Subparts Two Through Eight**

In light of your description of the PTO’s limited resources available to respond to FOIA requests, as well as the public interest in timely production of relevant records, Mr. Hyatt hereby withdraws the other subparts (i.e., subparts two through eight) of his original request and may refile them as a separate request or requests at a later date.

### **Fee Waiver**

Your previous fee estimate incorrectly assumed that Mr. Hyatt is requesting records for commercial use and may therefore be assessed fees for the agency’s review of records. That assumption, however, misunderstands the nature and purpose of Mr. Hyatt’s request. Mr. Hyatt seeks to ascertain the extent and details of the violation of his constitutional and statutory rights by the PTO and PTO personnel and to inform the public, through publication, about PTO important operations that have not been meaningfully disclosed to date and about potentially serious misconduct by a government agency and its personnel.

On that basis, Mr. Hyatt is entitled to a fee waiver. As consideration of the applicable factors demonstrates, “[d]isclosure of the [requested] information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

The public interest in disclosure is overwhelming. First, it is indisputable that the requested records specifically concern identifiable operations or activities of the government: the PTO’s treatment of a patent applicant, Mr. Hyatt, and his applications through the creation and operation of an Art Unit principally focused on his applications and a set of policies carried out by that Art Unit and potentially other PTO divisions.

Second, the requested records are likely to contribute to an understanding of those government operations and activities, because they will be meaningfully informative with respect to them, focusing on the persons responsible for establishing and managing that Art Unit in the relevant time periods. The requested records will also shed light on PTO policies related to flagging “sensitive” applications, a matter of intense public interest about which key details remain undisclosed. This information is not already in the public domain.



Louis Boston  
April 27, 2018  
Page 4

Third, the disclosure of these records will contribute to public understanding because Mr. Hyatt intends and has made concrete plans to disseminate the information obtained through Internet publication, collaboration with news media, and collaboration with nonprofit organizations that work on government accountability, intellectual property, and regulatory reform issues. In particular, Mr. Hyatt is affiliated with the American Center for Equitable Treatment (“ACET”), a nonprofit group with which he has collaborated in the past to obtain and disseminate information of public interest. Both he and ACET have demonstrated expertise in these areas, such that they can help explain to the public the meaning and relevancy of the requested information. Likewise, Mr. Hyatt and his counsel have demonstrated their ability to bring matters involving government accountability and misconduct to the public attention.<sup>1</sup>

Fourth, disclosure of the requested information will contribute significantly to public understanding, given the extremely limited understanding of these operations or activities as a result of the PTO’s lack of public disclosure and actual hindrance of public disclosure. The public, of course, has an overwhelming interest in being informed about the way that the PTO treats patent applicants, about government misconduct, about government spending on the operations and activities at issue, and about the agency’s processing of long-pending patent applications. And today the public knows little or nothing about these things, as well as the PTO’s handling of Mr. Hyatt’s applications, which themselves implicate public rights.

By contrast, Mr. Hyatt’s commercial interests are all but non-existent. The PTO has consistently maintained that any possible bad faith or misconduct on its part in the handling of Mr. Hyatt’s patent applications is legally irrelevant to their merit and issuance and that its handling of his applications is guided by law and necessity alone. In particular, the PTO does not consider any of the information requested by Mr. Hyatt to be relevant to its examination or other handling of his applications, such that (in the PTO’s view) any use of that information in his applications pending before the agency would not advance their prosecution or otherwise advance their issuance. Mr. Hyatt may disagree on those points, but the agency’s consistent position is that the requested information is irrelevant to the issuance of any patents to Mr. Hyatt and therefore irrelevant to any commercial interest he may have their issuance. In any instance, Mr. Hyatt’s principal interest is identifying and exposing the PTO’s unusual treatment of him, its secret policies and procedures, and the likely violation of his constitutional and statutory rights by the PTO, which is not at all a commercial interest.

Accordingly, the magnitude of any commercial interest is minimal at most, while the identified public interest in disclosure is overwhelming. The public interest in disclosure is therefore the primary interest. As such, Mr. Hyatt is entitled to a fee waiver.

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<sup>1</sup> For example, two of Mr. Hyatt’s attorneys, including the undersigned, were involved in exposing the “John Doe” scandal in Wisconsin.

Louis Boston  
April 27, 2018  
Page 5

### **Lack of Commercial Use**

If you determine that Mr. Hyatt is not entitled to a waiver of all review-related fees, Mr. Hyatt still may not be required to pay fees for the agency's review of records because his intended use of the requested records is not a commercial one, as described above. As you know, "commercial-use" designation "turn[s] on the use to which the requested information would be put, rather than on the identity of the requester,"<sup>2</sup> and Mr. Hyatt's intended use is to understand the PTO's unusual actions on his applications, understand how the PTO has treated and is treating applications that it has identified as "sensitive," assess any violations of his rights, and inform the public of those things so as to advance public understanding, hold to account those responsible for any misconduct, and ensure that similar misconduct is averted in the future. Mr. Hyatt describes his intended use of the requested records in the attached declaration, which I ask that you consider in evaluating Mr. Hyatt's request for a fee waiver and whether his intended use is commercial.

Thank you again for your prompt attention to this matter.

Sincerely,



Andrew M. Grossman  
*Counsel to Gilbert P. Hyatt*

Attachment

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<sup>2</sup> "Fees and Fee Waivers," Dep't of Justice Guide to the Freedom of Information Act (2013 ed.).

**DECLARATION OF GILBERT P. HYATT**

Pursuant to 28 U.S.C. § 1746, I, Gilbert P. Hyatt, declare and state as follows:

1. I am an engineer, scientist, and inventor and holder of more than 70 patents issued by the United States Patent and Trademark Office (“PTO”). I have over 300 patent applications pending before the PTO (including what I believe to be unlawfully abandoned applications that I expect to get un-abandoned) covering subject matter including microcomputer structure, computer memory architecture, illumination control systems, display systems, graphics systems, image processing systems, and sound and speech processing. Most of my pending patent applications have been pending for over 22 years, with about a dozen applications pending for over 35 years.

2. Over the course of prosecuting these patent applications, I have come to believe that the PTO is not treating my patent applications fairly and that the PTO has established policies and procedures that are intended to preclude me from ever obtaining patent protection for any of my pending patent applications. I have detailed some of these concerns, and their factual bases, in the attached declaration, dated December 27, 2016, which is attached and specifically incorporated into this declaration. (Ex. A).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. On February 12, 2018, I caused to be sent a Freedom of Information Act (“FOIA”) request for certain records relating to me that I believe to be under the control of the

PTO. In order to respond to concerns that the PTO has raised about the scope of that original request, I have deferred all requests except the following:

All records concerning Mr. Hyatt or his patent applications created by, sent by, or received by (a) Diego Gutierrez during 2012 and 2013 or (b) Gregory Morse from and including 2013 through 2018, excluding (1) email attachments, (2) documents contained in the file histories of Mr. Hyatt's applications, and (3) drafts of documents contained in the file histories of Mr. Hyatt's applications.

Copies of all Performance Appraisal Plans for, and signed by, Examiner Walter Briney for fiscal years 2013, 2014, 2015, 2016, 2017, and 2018.

5. The request concerns the PTO's treatment of my patent applications, which have been pending before the agency for many years. Supervisor Diego Gutierrez was the initial supervisor of Art Unit 2615, to which the PTO assigned my patent applications; Gregory Morse is his successor, serving as the supervisor of that Unit today. Walter Briney served as an examiner in that Unit working on my applications throughout the period from 2012 through 2018.

6. The purpose of the FOIA request is to ascertain and publicize the extent and details of the unusual treatment by the PTO of my applications, so as to inform the public about the agency's operations and allow the agency and its personnel to be subject to public accountability. This unusual treatment includes actions that I have reason to believe were taken in violation of my constitutional and statutory rights by the PTO and PTO personnel, and I intend to inform the public, through publication, about PTO operations and policies that have not previously been meaningfully disclosed and about potentially serious misconduct by a government agency and its personnel.

7. For example, the disclosed information will inform the public about PTO's operations and actions carrying out a previously secret program that included my applications and others'. In particular, it will reveal how the PTO and its examiners and officials treated my

applications that, by PTO's own admission, were flagged under the Sensitive Application Warning System ("SAWS") program. The SAWS program was a secret program established in 1994 for flagging applications the PTO deemed "sensitive" to ensure that they would not issue even if an examiner allowed the application. Since the public revelation in 2014 of this program's existence, it has been the subject of extensive press coverage, congressional inquiries, and controversy within the patent community. Although SAWS has been subject to widespread curiosity and interest, the PTO has refused to identify which applications it flagged under SAWS and has never disclosed the full details of the operation of SAWS, including the full range of effects and consequences of an application being flagged under SAWS and the role of senior PTO management in implementing and operating SAWS. Because there is definitive evidence that my applications were flagged under SAWS, publication of the information disclosed under this request will inform the public for the first time about certain important aspects of the PTO's treatment of SAWS applications.

8. The disclosure of the requested information will significantly contribute to, and enhance the understanding of a reasonably broad audience of persons interested in the subject. I intend to provide the records that I obtain through the FOIA request to the American Center for Equitable Treatment ("ACET"), a non-profit corporation with which I am affiliated as a member. ACET is dedicated to educating Americans about the economic and social benefits of the federal government's fair, efficient, and effective administration of technology, innovation, and intellectual property laws and policies. Through its Accountability Projects involving investigations, reports, legal filings, and ACET Blog posts, ACET promotes government accountability and transparency to protect the laws and regulations central to America's world

leadership in technology, innovation, and intellectual property protection. ACET serves as a free information resource for scholars, policy makers, journalists, and citizens.

9. One of ACET's projects is its "USPTO Accountability Project," which uses government publications and the Freedom of Information Act to gather information of potential interest to the public from the PTO and to disseminate that information to advance public understanding both of government process and of the effect such process has on technological innovation, intellectual property protection, and economic prosperity. ACET posts its information requests and the USPTO's responses for public review and also publishes analyses and commentary on such information.

10. In particular, the ACET publishes information that it obtains from FOIA requests as part of the USPTO Accountability Project on its website at <http://acet-usa.org>.

11. I also intend to publish any records obtained from this FOIA request at <http://www.ptomisconduct.com>, which I have reserved specifically for that purpose.

12. Additionally, I intend to ensure that information shedding light on the PTO's activities are extracted, synthesized, and effectively conveyed to the public through publication of analyses of any misconduct identified in the materials and through the media, both general interest and trade-specific. ACET has the capability of performing these activities, and I do, too. In particular, I have the capability of extracting, synthesizing, and effectively conveying information concerning the inner workings of the PTO to the public through my many decades of experience working with the PTO on patent examination. I am also a registered patent agent. Moreover, I intend to, and routinely do associate with individuals with expertise in extracting, synthesizing, and effectively conveying information concerning the inner workings of the PTO to the public. In sum, I am uniquely situated and involved in proceedings at the PTO on which I

seek information that has relevance to a broad segment of the public, and I have the expertise in the subject area and the ability and intention to effectively convey such information to the public.

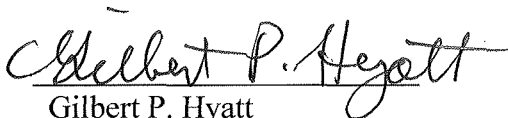
13. Although the FOIA request concerns records pertaining to me, those records are, viewed objectively, of significant interest to the public. For example, Mr. Gregory Morse, the supervisory patent examiner who heads the Hyatt Unit (Art Unit 2615) offered sworn testimony that “the PTO has expended a lot of people and resources and money in department salaries trying to examine Mr. Hyatt’s applications,” to the tune of about \$10 million just in examiners’ salaries over the past five years. Trial Tr. 57:1–25 (Oct. 12, 2017 AM) (Ex. C). The public and other users of the patent system have a legitimate interest in understanding how that money was spent, what purposes it was spent to accomplish, and whether the PTO is accomplishing those purposes. I am not aware that any information regarding these things has been made available to the public.

14. Moreover, the PTO has represented in court that my patent prosecution conduct and the prosecution of my patent applications are of interest to the public. For example, the PTO Solicitor’s Office recently represented to the United States District Court for the District of Columbia in a case concerning my patent prosecution conduct that “[i]t’s the government’s view that the particular prosecution laches issue that we have brought to the Court here is an issue that is raised in the public interest to prevent the abuse of the patent system.” Trial Tr. 5:18–21 (Oct. 6, 2017 AM) (Ex. C).

15. I do not have any commercial interest in the records that are sought by the FOIA request. The information I seek pertains to examiner practices and procedural matters, not to the merits of the technology described or claimed in my patent applications or the merits of the patent claims contained in those applications. I do not currently engage in any patent licensing

activities, and the PTO has consistently maintained (in administrative proceedings and in court) that any possible bad faith or misconduct on its part in the handling of my patent applications is legally irrelevant to their merit and issuance and that its handling of my applications is guided by law and necessity alone. In particular, the PTO's position, as it has expressed in litigation, is that it does not consider any of the information requested here to be relevant to its examination or other handling of my applications on the merits, such that (in the PTO's view) any use of that information in my applications pending before the agency would not advance their prosecution, otherwise advance their issuance, or otherwise alter the PTO's processing of them.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 27, 2018.

  
Gilbert P. Hyatt



# Exhibit A

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

GILBERT P. HYATT,

Plaintiff,

v.

MICHELLE K. LEE,

Defendant.

Civil Action No. 05-2310 (RCL)  
Civil Action No. 09-1864 (RCL)  
Civil Action No. 09-1869 (RCL)  
Civil Action No. 09-1872 (RCL)  
**ECF**

**Declaration of Gilbert P. Hyatt in Support of  
Plaintiff's Motion for Discovery Pursuant to Rule 56(d)**

Pursuant to 28 U.S.C. § 1746, I, Gilbert P. Hyatt, declare as follows:

1. I am an engineer, scientist, and inventor and holder of more than 70 patents issued by the United States Patent and Trademark Office ("PTO"). I have over 370 patent applications ("applications") pending before the PTO covering subject matter including microcomputer structure, computer memory architecture, illumination control systems, display systems, graphics systems, image processing systems, and sound and speech processing systems. Most of my pending patent applications have been pending for over 21 years, with about a dozen applications pending for over 35 years.

2. I submit this declaration in support of the Plaintiff's Motion for Discovery Pursuant to Rule 56(d) to provide a factual basis for certain of the facts for which I am requesting to conduct discovery.

**Hyatt-Specific Policies and Procedures**

3. Based on my communications and interactions with PTO personnel over the years, I know that PTO has adopted, at various times, a number of policies and procedures specifically addressing the treatment of my applications. Documents setting forth these policies and procedures, however, are not included in the file histories for my applications or in the administrative records before this Court.

4. Although my applications covered diverse technology subject matter that are examined in different PTO Technology Centers (“TCs”), the PTO assigned Richard Hjerpe, a Supervisory Patent Examiner, to work with my patent attorney and me in the late-1990s through the mid-2000s to manage the examination of my patent applications, including the four patent applications in the instant actions. Mr. Hjerpe communicated with me personally from at least 1996. The telephone conference record attached hereto as Exhibit 1 describes a 1996 telephone call that I received from Mr. Hjerpe. Mr. Hjerpe stated that he was in charge of all my patent applications and that my patent attorney and I should work through him on my patent applications. In order to assist the PTO in examining my applications, we had numerous telephone conferences and several meetings with Mr. Hjerpe at the PTO.

5. Mr. Hjerpe mentioned many times in telephone conversations from the late-1990s to the mid-2000s that he communicated often with the examiners working on my applications to keep track of their progress and ensure consistency in their actions. These communications, which Mr. Hjerpe often said took place through email, are not included in the file histories or in the record before this Court.

6. Mr. Hjerpe mentioned in one of the telephone conferences in the early-2000s that the PTO was taking special care of my patent applications and that the PTO had “special procedures” for handling them. Mr. Hjerpe also mentioned the Patent Application Location and Monitoring (“PALM”) system. Based on my conversations with Mr. Hjerpe and other timing considerations, it is likely that the four patent applications at issue in these cases were subject to these “special procedures.”

7. I understand that the “special procedures” included the creation and use of a “Hyatt room” at the PTO to organize the work of a team of patent examiners (“examiners”) responsible for certain of my applications. Mr. Hjerpe mentioned several times in telephone conversations in the early- and mid-2000s that the PTO had a “Hyatt room” where it kept the file histories and prior art references for my patent applications. The telephone

conference record attached hereto as Exhibit 2 describes the protocol for providing prior art references, which I understood were kept in the “Hyatt room,” and the Information Disclosure Statement (“IDS”) attached hereto as Exhibit 3 is one of many IDSs that references the telephone conference record for the submission of prior art references. The telephone conference record is referenced in the footnote on the first page of Exhibit 3. Based on my conversations with Mr. Hjerpe and other timing considerations, it is likely that the four patent applications at issue in these cases were maintained in the “Hyatt room” at the PTO.

8. I had several meetings at the PTO and numerous telephone conversations with Brian Werner, who was responsible for many of my applications, in the mid-2000s.

9. In a telephone conversation, Mr. Werner told me that he had a special procedure by which he could generate a large office action on each of my patent applications in two days. I understood him to be referring to the lengthy, repetitive, and burdensome-to-respond-to actions that were being issued on many of my applications around that time—actions that appeared calculated to frustrate my ability to comply with the PTO’s demands and obtain substantive action on my applications. He indicated that a team had been assembled specifically to work on my applications. Two of the four applications in the instant actions were examined personally by Mr. Werner. It is Mr. Werner’s rejections that are the subject of these two appeals.

10. I understand that, in early 2013, after years of inaction, the PTO assigned almost all of my applications to a single examination group, Art Unit 2615, which worked exclusively on my applications. Exhibit 4. The PTO called this group the “Bulk Filers” group, apparently reflecting the PTO’s prejudgment that the mere fact that I filed a large number of applications (covering a wide range of technology subject matter) somehow implies that my pending applications are without merit. This is despite the fact that I hold a number of issued patents and have been recognized for my technological innovations. I am

unaware of any PTO art unit dedicated solely to “bulk filers” such as IBM that file thousands of patent applications every year.

11. I understand that a number of my pending patent applications were, for a number of years, subject to the PTO’s secret Sensitive Application Warning System (SAWS) program. This program was created at least as far back as 1994. It established a secret review process for some pending U.S. patent applications selected based on secret criteria made up by the PTO. It was designed to flag what the PTO deemed “sensitive” applications and subject them to special scrutiny, even though the term “sensitive” is not found in, nor could be reasonably interpreted from, any statutory criteria for patentability. The SAWS program had not been adopted by reference to any specific statutory or regulatory authority, nor was it disclosed to the public by the PTO. It was secret. Freedom of Information Act (“FOIA”) disclosures revealed that the PTO used SAWS to target applications “which if issued would potentially generate extensive media coverage” (i.e., news, blogs, forums), “applications...claiming subject matter that, if issued, would potentially generate high publicity” for the USPTO, and “[a]pplications with pioneering scope.” Exhibit 5 at 1–2. Applications “which have old effective filing dates (pre 6/8/1995, i.e. pre-GATT) with broad claim scope” were also flagged under SAWS. Exhibit 5 at 2. In other words, the SAWS program was the PTO’s “Be On the Lookout,” or “BOLO,” list of certain patent applications. Importantly, SAWS applications were flagged in the PALM system “to prevent issuance.” Exhibit 6.

12. The PTO’s Board of Appeals was informed of any application that came up on appeal that was flagged under SAWS. The PTO instructed examiners to write an Impact Report for some SAWS applications, projecting likely impact on the public and the PTO should the application issue. FOIA records reveal that such SAWS applications would be referred to the “10th floor,” specifically to the PTO’s Office of Patent Legal Administration (“OPLA”), for review. The OPLA may approve issuance, may ask for changes in the

application to allow, or may say “no way”—the application “could not get allowed (had to be withdrawn from issue).” Exhibit 6.

13. The program was said to have been terminated in March 2015, in the midst of a public controversy over its operation and a Senate inquiry that was in process. Because my applications met the SAWS criteria (pre-GATT applications, “claiming to subject matter that, if issued, would potentially generate high publicity” for the USPTO), I understand that my applications were identified as being subject to SAWS, including when they were appealed to the Board of Appeals, potentially prejudicing its consideration of my appeals. This likely included the four applications in the instant actions which are appealed from the decisions of the Board. Of particular significance is the fact that PTO management on “the 10th floor,” exercised extraordinary power under this secret program to refuse allowance, or withdraw from issue, claims to patentable inventions which they deem too “sensitive.” The treatment of my applications has the hallmark of PTO’s secret exercise of such power—the “no way” determination made at the “10th floor” to prevent issue—including an indefinite withdrawal from issue of one of my allowed applications. *See infra* ¶ 57.

14. Other experiences with the PTO, some of which are described below, have indicated that the PTO is applying other Hyatt-specific practices, policies, and procedures. In many instances, the PTO has issued waves of identical or related actions in numerous of my applications within a short period of time, reflecting that it is carrying out some kind of policy or directive. In many instances, the application of these policies and procedures has consisted of or caused delays in the prosecution of my applications, induced delays in the prosecution of my applications, induced the conduct the Defendant described in the motion to dismiss, and I understand and believe frustrated the regularity of the PTO’s examination of my applications.

#### **PTO’s Inducement of Challenged Conduct**

15. At all times, I have sought to prosecute my applications according to the requirements of law, so that they will be granted. To that end, I have often taken direction

from the PTO on how it prefers that I proceed, and worked collaboratively with PTO personnel, to facilitate expeditious action on my applications.

16. I took numerous actions before the PTO at Mr. Hjerpe's behest in an attempt to assist the PTO, with the understanding that taking such actions would expedite consideration of my applications. For example, Mr. Hjerpe stated in a telephone communication and in a meeting that the PTO wanted to expedite processing of my patent applications and that he would work with my patent attorney and me to get my patent applications issued. Mr. Hjerpe was representing PTO management at a high level; for example, Mr. Hjerpe stated that this was the IDS procedure decided by the directors of the groups examining my pending applications. Exhibit 2. Because we wanted to assist the PTO, my patent attorney and I cooperated with Mr. Hjerpe for that purpose. Exhibit 3. Mr. Hjerpe did not mention delays, laches, or any other such issue and he did not mention that the PTO had any problem with my patent applications.

17. The PTO assigned Michael Razavi, a Supervisory Patent Examiner, to work with my patent attorney and me between the late-1990s and the mid-2000s to simplify the examination of my patent applications. Mr. Razavi and I had a meeting at the PTO and several telephone conferences.

18. Because I wanted to assist the PTO in processing my applications, I took numerous actions before the PTO at Mr. Razavi's behest, with the understanding that taking such actions would expedite consideration of my applications. For example, Mr. Razavi reviewed and pre-approved amendments to patent applications that I drafted and filed. True copies of three excerpted telephone conference records for telephone conferences with Mr. Razavi are attached hereto as Exhibit 7. Mr. Razavi suggested that my patent attorney and I inform the patent examiners that the amendments were pre-approved by him and we did so. An excerpt from such an amendment informing an examiner to that effect is attached hereto as Exhibit 8. Mr. Razavi did not mention delay, laches, or any other such issue, and he did not mention that the PTO had any problem with my patent applications.

Based on timing and other considerations, it is likely that all four patent applications at issue in these cases were subject to Mr. Razavi's involvement.

19. I had several meetings with Gerry Goldberg, Director, at his office at the PTO and several telephone conversations with Mr. Goldberg in the late-1990s and in the early-2000s. Mr. Goldberg gave me guidance on issues such as claim drafting. I understood that following his guidance would expedite consideration of my applications. Mr. Goldberg did not mention delay, laches, or any other such issue and he did not mention that the PTO had any problem with my patent applications.

20. I also had meetings and telephone conversations with Mr. Werner. In my meetings and conversations with Mr. Werner, he did not mention delay, laches, or any other such issue and he did not mention that the PTO had any problem with my patent applications.

21. These facts, and others, lead me to believe that the PTO had a policy of encouraging and inducing me to take actions that it now claims resulted in or contributed to unreasonable delays.

### **PTO's Policy of Delaying Examination**

22. Based on the PTO's actions, I believe that the PTO has numerous times implemented a policy of intentionally delaying examination of my applications.

23. For example, on page 43 of the Defendant's motion to dismiss, the PTO concedes that it suspended prosecution of the four applications at issue in these cases, among many others, for years. MTD at 43.

24. That was not the only instance where PTO suspended prosecution across many of my applications at once.

25. For example, Mr. Hjerpe and Mr. Razavi and four PTO TC Directors (Andrew Faile, Mark Powell, Joseph Rolla, and Nestor Ramirez) signed more than 2,000 suspensions of action for a period of six months each for my patent applications, causing



more than 1,000 years of aggregate delay in the prosecution of my patent applications during the 2000s.

26. Altogether, these more than 2,000 suspensions of action caused more than 1,000 years of aggregate delay by the PTO in the prosecution of my patent applications in the mid-2000s. An example of a suspension issued by the PTO is shown in Exhibit 9.

27. These delays were contrary to the PTO's own operating procedures, which specify that "[s]uspension of action at the initiative of the Office should be avoided, if possible," and that subsequent suspensions should issue only "in an extraordinary circumstance." *Manual of Patent Examining Procedure* ("MPEP") § 709(II). These more than 2,000 suspensions of action were produced in waves of hundreds of nearly identical suspensions issued together at different times over and over again in the same applications. There was also no apparent examination-related basis for these actions, which were often entered simultaneously across numerous applications that are unrelated technically or legally.

28. In addition to the delays caused by the suspensions, there were long periods during which the PTO simply took no action, without formally entering suspensions of action.

29. I objected to these delays and attempted to expedite—not delay—action on my applications. To that end, I sent numerous status inquiry letters, filed over 1,000 petitions for an action on the merits or, in cases that had already been appealed, for an examiner's answer (the PTO version of an opposition brief to my appeal brief) or a waiver thereof, without which the appeal will not be decided by the Board of Appeals. Under the PTO's own procedures, the patent examiners should have filed responsive examiner's answers within two months, *see* MPEP § 1207.02, but the examiners never did so. My petitions, both in appealed and non-appealed cases, were either ignored by the PTO or were dismissed, and were often followed by more suspensions. Exhibit 10 provides the detailed events of 80 appealed applications which the PTO delayed by withholding examiner's

answers, refusing to pass the appeals to the Board of Appeals, and issuing waves of suspensions of prosecution. Exhibit 11 shows the timeline of these 80 appealed applications, including my repeated petitions for action and the waves of simultaneous PTO suspensions in these applications.

30. Many of my applications, despite being assigned to an examiner, have languished due to the PTO's unexplained inaction. Yet, pursuant to MPEP § 707.02, applications are considered "special" if they have been pending for more than 5 years. A patent application that is deemed "special" is entitled to prioritized treatment and may be advanced out of turn for examination. *See generally* 37 C.F.R. § 1.102. All of my applications must be considered "special" and have long been entitled to expedited treatment.

31. In my conversations with Mr. Hjerpe regarding the examination of my applications, he explained to me about the PALM system and docketing. He also mentioned "dockets" and "docketing" numerous times, stated he would put my applications on an examiner's docket, and informed me they were on an examiner's docket or that he would docket them. As I understand it, every material activity, action, or transaction in a patent application is recorded in the PALM system by status codes and event codes. For each patent examiner, the PALM system provides examiner-specific bi-weekly docket reports identifying docketed applications for examination as regular, special, or expedited applications in priority order; the individual examiner rejected applications; the individual examiner new applications, sorted by month of filing. MPEP § 1704. Thus, PALM records and bi-weekly examiner docket reports generated by the PALM system can reveal when applications were placed on the examiner's docket for action and when examiners were actually working on specific applications and other internal actions taken by PTO. This information is not generally available outside of the PTO. I understand that the PALM records and reports are preserved and backed-up in their entirety. I believe that the full PALM records, as well as related records and reports maintained by the PTO would therefore provide evidence of PTO's prioritization and processing of my applications.

32. The PTO's policy of delaying the examination and appeal of my patent applications continues in force to this day, based on actions it has taken to delay examination and frustrate appeals in many of my applications.

**PTO's Misrepresentations Regarding Its Consideration of My Applications**

33. On a number of occasions, the PTO has misled me to believe that it intended to expedite consideration of my applications or otherwise take prompt action on them. In reality, it has delayed action on them for many years, for which it now blames me.

34. I have filed petitions asking that the PTO act on about 184 of my pending applications that languished for years at the PTO with no examiner action. In my petitions I explained that my applications have been pending longer than 5 years and so were considered "special" pursuant to MPEP § 707.02 and entitled to prioritized treatment. *See, e.g.,* Exhibit 12.

35. In answering my petitions, the PTO acknowledged that the patent applications were "special" and thus entitled to special expedited treatment but dismissed the petitions *as moot* because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy." Exhibit 13. The PTO also stated that "[t]he examiner will be notified that this application should be considered as 'special' and appropriate for expedited action." *Id.*

36. Contrary to these misleading promises to treat the applications as "special" and act promptly, I received no examiner action in any of these 184 cases. Instead, around May of 2007, the PTO proceeded against my applications in two ways. First, in actions signed by Mr. Razavi, it abandoned at least five of my applications by falsely asserting that I failed to respond to PTO actions mailed in 2003 (applications in Dockets 373, 380, 386, 405, and 468). I successfully petitioned to withdraw the holding of abandonment, and Mr. Razavi's actions were reversed by the Office of Petitions in all five cases. Second, around the same time, the PTO began issuing suspensions of examination in all of these applications, on average 2.5 years after the PTO represented in its petition decisions that

there would be prompt examiner action. Exhibit 14 is a table illustrating the chronology of these events. All but three of the petition decisions were signed by Kenneth A. Wieder, Special Program Examiner of TC 2600. At the time these petitions were decided, the TC's Special Program Examiners were overseeing and deciding petitions to make applications "special." *See* MPEP § 708.02(XII) (8th ed., Rev. 2, May 2004) ("Petitions to make special are decided by the Special Program Examiner of the TC...."). Therefore, the Special Program Examiner's promise for prompt action in these applications carried an imprimatur of authority for ensuring "special" treatment and prompt action, on which I relied.

37. The PTO's misrepresentations and false promises were uniformly orchestrated across all 184 petitions not only by using identical stock petition decision language, but also by denying subsequent examiner action on all of these applications for years. As Exhibit 14 shows, Mr. Razavi took over as examiner of record in most of these 184 applications, which had been previously assigned to dozens of examiners. Because it is unreasonable that Mr. Razavi could single-handedly do all work normally assigned to dozens of examiners, a reasonable inference can be drawn that the PTO had no intention of acting on these applications at that time—in other words, that Mr. Razavi was simply assigned as examiner of record in all these applications to "manage" inaction and issue suspensions. As the PTO records show, Mr. Razavi did not approve any patent applications for issuance for which he was the examiner of record.<sup>1</sup>

38. In one instance, the first case listed in Exhibit 14, after I filed a petition for examiner action, Exhibit 15, the PTO denied it but stated that, "in view of the lengthy prosecution in the instant application, the file is being forwarded to the examiner for *immediate* action as appropriate. Any delay caused petitioner in the treatment of the petition

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<sup>1</sup> Search of the PTO database at <http://patft.uspto.gov/netahtml/PTO/search-adv.htm> using the search string (EXA/"Razavi; Michael" OR EXP/"Razavi; Michael") yields no issued patents after February 2007.

and the Appeal Brief is regretted.” Exhibit 16 (emphasis added). That “immediate action” did not happen. Instead, the PTO took no action for more than a year and then issued a suspension.

39. Examiners of record at the time of my petitions for action in these applications were clearly not working on my applications. PTO records show that the examiners issued numerous other patents without examining my applications during the period that they were to treat my applications as “special”—i.e., first on their action docket. Exhibit 17. The PTO docket management procedures require that after a petition decision, the application files be “forwarded to the examiner” with a corresponding PALM time stamp to that effect. The specific applications must therefore appear on the examiners’ bi-weekly docket report as “special,” having expected examiner actions within 14 days on average with a maximum control ceiling of 28 days. *See* Patent Office Professional Association, *Patent Examiner Performance Appraisal Plan Guidelines* 55 (Apr. 2012). That “special” treatment did not happen in any of the 184 applications.

40. These actions, taken consistently across a group of 184 applications, reflect a policy by the PTO to delay action on my applications, even where expedition is required by agency rules, and to mislead me regarding the status of my applications and the PTO’s actions on them. Based on my interactions with the PTO, including those described in this Declaration, I have reason to believe that the same or similar policies were carried out with respect to many other of my applications.

### **PTO’s Bad Faith or Unclean Hands**

41. Based on the PTO’s conduct and other evidence, I understand and believe that the PTO’s ultimate policy is to prevent my patent applications from issuing regardless of their merits.

42. The PTO has blocked the fair and impartial examination of my applications and, in many cases, blocked me from obtaining final agency action on the merits subject to judicial review.

43. I had a telephone conversation with a patent examiner who was examining many of my patent applications in the mid-2000s in one of what the PTO calls a “family” of applications. This patent examiner told me that he wanted to issue these patent applications but that his supervisor would not let him do so. These patent applications are still pending about a decade later, and most of them have been re-examined with totally new non-final rejections on the same claims that were examined a decade before. The PTO is thus starting over with non-final rejections on patent applications that it had examined about 20 years ago and on which at least one examiner stated that he wanted to issue patents to me. On further information and belief, there is discoverable evidence that several times during the 2000s examiners were told by supervisors that none of my patent applications would be permitted to issue, that my patent claims should be “rejected out of hand,” and that the examiners should erect all possible barriers to overwhelm me with paperwork burdens that would make it difficult for me to respond.

44. The PTO has tied up my applications in a never-ending cycle of administrative proceedings, which it refers to as “recycling.” I met with the Director of Technology Center 2600, Andrew Christensen, on November 16, 2006. This meeting occurred just after the Board of Appeals had reversed the rejections in two of my patent applications, and the PTO had then reopened prosecution instead of allowing the two applications to issue as patents. After I described this treatment, Mr. Christensen confirmed that it was the “policy” of the PTO to “recycle” my patent applications—going round and round from the examining groups to the Board of Appeals and then back to the examining groups and then back to the Board of Appeals. My meeting notes were contemporaneously sent to the PTO for filing in the records of the relevant applications. *See Exhibit 18.* Mr. Christensen also signed many of the suspensions. *See Exhibit 9.*

45. PTO has taken other actions to avoid judicial review of the merits of final actions denying issuance of patents for most of my applications. In particular, the PTO has

not only interposed delays in examination, but has also frustrated my ability to obtain final agency action on the merits that could be challenged in court.

46. For example, there are many instances in which I prevailed at the Board of Appeals only to have the PTO end-run the decisions of the Board of Appeals, reopen prosecution of these applications, issue non-final office actions, and cause additional years of delay. This PTO policy has caused years if not decades of delay in the prosecution of my patent applications while attempting to keep my applications from issuing as patents.

47. Similarly, the PTO has taken apparently coordinated action across numerous applications to frustrate administrative appeals that might result in issuance of patents or final agency action subject to judicial review.

48. During a typical appeal to the Board of Appeals the applicant files an Appeal Brief, the examiner files a response called an examiner's answer, and the applicant files a Reply Brief. However, in 80 of my applications, after many years of PTO delay, I filed Appeal Briefs in these patent applications. After a long period of additional delay by the PTO (typically more than five years), rather than file examiner's answers and forward the cases to the Board of Appeals, the examiners reopened prosecution without identifying any ground for rejection. Exhibit 10; Exhibit 11. For example, in one application, this action took these 80 applications back 20 years, to the beginning of the examination process. There is no PTO rule or procedure that permits examiners to reopen prosecution without giving notice of the new ground for rejection. Instead of giving a new ground of rejection, the examiners demanded that I select only a small subset of my claims for *repeated* examination. After I made claim selections under protest, the examiners issued rejections based on many of the same arguments that had already been addressed in the Appeal Briefs, which the PTO refused to consider. I filed petitions to have my Appeal Briefs considered by the examiners but the PTO denied the petitions. The patent examination was thus restarted from the very beginning with no consideration given to the 20 years of prosecution that had already occurred.

49. Based on my interactions with the PTO, I believe it has adopted a policy of drafting office actions and communications so as to maximize the burden and effort required for me to respond, even by raising issues that are frivolous. The result has been the imposition of a substantial time and expense burden on me, while putting me at risk of adverse action for failure to respond in full compliance.

50. In 2013, the PTO set back the examination process in nearly all of my applications to a time prior to the original non-final office actions generated 20 years ago (not including the four patent applications in the instant actions) through a series of about 400 office actions undertaken over a period of just six months. Many of these applications are still waiting for an imminent non-final office action three years after the 2013 actions and more than 20 years after the first non-final office actions were generated. The 2013 actions appear to have been coordinated across nearly all of my applications, suggesting a common policy and a lack of regard for the unique substance and circumstances of each application.

51. The PTO's 2013 actions, like other actions taken by PTO, prejudiced me in two respects. First, after years of inaction in all applications, when PTO takes hundreds of near-simultaneous actions in nearly all applications, rather than through the normal pipeline process of taking action at spaced intervals as would have occurred had action in these applications been unfrozen, it taxes the resources of even the most diligent applicant to respond to them all expeditiously. Second, because PTO placed my applications in limbo for years before suddenly requiring me to amend them, the experienced and knowledgeable attorneys and staff who assisted me in prosecuting my applications during the early- and mid-2000s were no longer available, requiring me to attempt to bring others up to speed rapidly on my inventions. As a result, I was not able to amend most of my patent applications before responding to the office actions, which I believe to have been the PTO's purpose in issuing so many actions at once.



52. The PTO has claimed at various times that it “lost” entire file histories for more than 50 of my patent applications—about 13 percent of my pending applications. In some cases, the PTO has lost and found the file histories of a single application several times, and in other cases I have had to replace the PTO’s lost file histories with copies from my files. A considerable delay is imposed on a patent application each time the PTO loses part or all of the file history. I am not aware of the PTO regularly “losing” other applicants’ file histories.

53. In my docket number 829, I filed a District Court action to compel examination of all of the claims, rather than only a subset imposed by the PTO. The PTO moved to dismiss the case to enable the Board of Appeals to render a decision that might moot the court case. My District Court action was dismissed without prejudice in 2000, pending a decision by the Board of Appeals. The Board of Appeals reversed the examiner’s rejections in part, and thus the PTO should have examined the rest of the claims. However, in 2016, about 15 years after the court dismissal and the Board decision, this application is still awaiting an examiner’s action.

### **Responsibility for Delay**

54. PTO faults me for the sheer amount of time that has elapsed since my applications were filed. Three examples serve to demonstrate how PTO’s policies and practices that are unique to my applications, taken altogether, have caused decades of delay on my applications and have severely prejudiced me.

55. **Example 1.** This example involves instances of the PTO delaying its first actions on applications for 9 years after they had been filed, without any explanation.

- a. In 2004, I filed the patent applications of Docket Nos. 904 and 906. At that time, the average wait for a first action on an application was about 21 months. PTO, *Performance and Accountability Report for Fiscal Year 2005*, at 22.
- b. It was not until October 2013, 9 years after filing, that the PTO issued an action imposing certain requirements but without an action on the merits.

This was despite the fact that there could have been no antecedent factors for PTO delay, because these applications did not claim any priority to any other of my pending applications.

- c. This delay has not only prejudiced me by denying me patent protection for years, but it also prejudiced the public. Under 35 U.S.C. § 154(b)(1)(A)(i), the term of the patent shall be extended 1 day for each day beyond 14 months until the first PTO action is taken on the application. Thus, when patents are issued on these applications, their term would be adjusted by adding about 8 years—an extension that would deprive the public of free access to the technology for 8 years longer. The responsibility for this prejudice to the public lies squarely with the PTO.

56. **Example 2:** This example illustrates how the PTO can employ multiple approaches to delay action on what it considers a disfavored application for decades.

- a. I filed a patent application on *High Intensity Illumination Control System*, designated as Docket No. 146 on December 13, 1977 (40 years ago).
- b. After my claims were rejected, I filed a notice of appeal and an appeal brief in 1989, more than 25 years ago.
- c. The PTO Board of Appeals finally decided the appeal, reversing in part the examiner on May 20, 2013, approximately 25 years after I filed my appeal brief. The journey to this 2013 event is replete with many instances of the PTO's use of its favored arsenal for dilatory conduct, including losing file histories multiple times and taking years to find them, asking me to furnish copies of items purported to be irretrievably "lost" at the Office, falsely abandoning my applications several times, suspending action several times, not responding to numerous status inquiries, dismissing several of my petitions for action, and leaving other petitions unanswered for decades. This tortured record is provided in great detail in a submission I made to the Board

of Appeals found in Exhibit 19. The Board of Appeals decision contained new grounds of rejection, and I responded in July of 2013. Since July 2013, the application has been awaiting action by the examining corps. The delay is now 40 years and counting.

57. **Example 3:** This example illustrates the arbitrary and extremely prejudicial actions that PTO took against me in connection with its withdrawal from issue of my U.S. Patent 5,625,761.

- a. On September 20, 1991, I filed a patent application for *A Transform Processor System Having a Lower Resolution Higher Speed Transform Processor in Combination With a Higher Resolution Lower Speed Transform Processor*, Ser. No. 07/763,395 (Docket No. 342) (the “395 application”).
- b. After a final rejection by the examiner, I filed an appeal and the Board of Appeals reversed the examiner. I subsequently received a notice of allowance on January 4, 1996. I paid the issue fee, and Patent No. 5,625,761 was assigned. An issue notice including bibliographic information, a drawing, and the first claim were published in the PTO’s Official Gazette, 1197 OG 3543 (April 29, 1997) as is the PTO policy with newly issued patents. *See Exhibit 20.*
- c. A week before the publication in the Official Gazette, in a letter by Karna Cooper, Paralegal Specialist in the Office of the Director, the PTO withdrew the patent from issue under 37 C.F.R. § 1.313, stating only that the purpose is to “reopen prosecution.” A copy of the letter from Karna Cooper is attached hereto as Exhibit 21. At the time of withdrawal from issue, the MPEP required that when prosecution is reopened after the payment of issue fee, “[t]he examiner at once writes a letter in the case stating that the application has been withdrawn from issue, citing the new reference, and rejecting the claims met thereby. The letter is given a paper number and placed in the file.”

MPEP § 1308.01 (6th ed., Rev. 2, July 1996). No such claim rejection letter was provided, and no reason or ground of rejection of any previously-allowed claim was given.

- d. Although prosecution in the '395 application was nominally reopened, the PTO has been sitting on it without action on the merits for almost 20 years. I filed petitions for action on January 21, 2005, August 28, 2007, and March 30, 2009. Copies of the petitions for action are provided in Exhibit 22. The PTO ignored all these petitions. Instead, more than a year after my second petition, the PTO started issuing a series of suspensions of the application, on December 31, 2008, April 21, 2010, January 21, 2011, October 13, 2011, and June 13, 2012, without making a single rejection on any claim since it purportedly reopened prosecution in 1997.
- e. The PTO has issued no patent to me at any time after April 29, 1997, the date that my '395 application was to be issued as Pat. No. 5,625,761 had it not been withdrawn from issue. I believe that it was around that time that the PTO had adopted internal policies and procedures to avoid issuance of any of my meritorious patent applications.
- f. Despite its withdrawal from issue, the PTO made the '395 application available to the public in violation of law, published it in the Official Gazette in 1997 and on its public Patent Application Information Retrieval ("PAIR") website. In 1997, 35 U.S.C. § 122 (Confidential status of applications) prescribed: "Applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner." I have given no authority to the PTO to publish the '395 application without issuing it as a patent. No act of Congress

necessitated the publication of the '395 application, nor is there a record that the PTO Commissioner made any determination that special circumstances arose to warrant such publication.

- g. Between my payment of the issue fee on April 5, 1996, and the Paril 29, 1997 publication in the Official Gazette, the PTO had ample time and opportunity to ensure that the '395 application would not appear in the Official Gazette if it intended to withdraw it from issue. By making the '395 application available to the public without issuing a patent in exchange, the PTO irreversibly violated the patent bargain by disclosing my claimed invention without issuing me a patent. I am not aware of such an unlawful publication occurring to any other applicant.

58. These examples not only support my belief that PTO has adopted policies and procedures specific to my applications, but also demonstrate the cumulative effect of the application of those policies against me.

59. Based on these examples, others like them, and the other facts discussed in this memorandum, I believe that the PTO is no longer acting on my applications in good faith and that it has not been for some time.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 27th day of December, 2016.

  
Gilbert P. Hyatt

## **Exhibit 1. Telephone record of Mr. Hjerpe's call to me**

#7 1/2  
6/25/97IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )

GILBERT P. HYATT )

Group Art Unit: 3609 269

Serial No. 08/471,598 )

08/471,700 )

08/471,704 )

08/471,702 )

08/479,087 )

08/466,953 )

Examiners: Jeffrey Brier

Steven Saras

K. Farnandez Stoll

Docket No. 509, 512, 514, 516,  
517, 538 respectively )

Filed: June 6, 1995 )

For: IMPROVED MEMORY ARCHITECTURE  
HAVING A MULTIPLE BUFFER  
OUTPUT ARRANGEMENT )RECEIVED  
96 MAR 20 AM 10:44  
GROUP 260TELEPHONE CONFERENCE RECORDHon. Assistant Commissioner  
For Patents  
Washington, D.C. 20231

Sir:

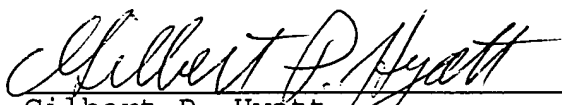
SPE Richard Hjerpe telephoned the Applicant on March 13, 1996. SPE Hjerpe told the Applicant that each of the six related applications listed above did not have the August 1995 preliminary amendment in the file wrapper. The Applicant checked and confirmed to SPE Hjerpe that an August 1995 preliminary amendment was filed in each of the six applications. SPE Hjerpe asked the Applicant for a copy of each of the six preliminary amendments and the Applicant said that he would supply copies thereof.

Transmitted herewith is a copy of each of the six preliminary amendments. Attached hereto as Exhibit A is a copy of each of the return postcards related to each of the six preliminary amendments.

The Applicant respectfully requests that a separate copy of this paper be placed in the file wrapper of each of the six applications identified above.

Dated: March 15, 1996

Respectfully submitted,

  
\_\_\_\_\_  
Gilbert P. Hyatt  
Registration No. 27,647  
P.O. Box 81230  
Las Vegas, NV 89180  
Phone (702) 871-9899



## **Exhibit 2. Telephone conference record on providing prior art for the “Hyatt Room”**



APPENDIX - I

RECEIVED

MAR 05 1999

Group 2700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )

GILBERT P. HYATT )

Serial No. 08/435,894 )

Docket No. 500 )

Filed: May 5, 1995 )

For: AN MEMORY SYSTEM HAVING IMPROVED )  
INFORMATION FLOW )

Group Art Unit: 2774

Examiner: Xiao Wu

TELEPHONE CONFERENCE RECORD

Hon. Assistant Commissioner  
For Patents  
Washington, D.C. 20231

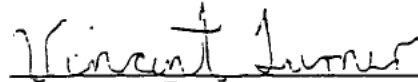
Sir:

SPE Richard Hjerpe and the Applicant's representative, Mr. Vincent Turner, spoke on the telephone on December 10, 1998 and on December 15, 1998 regarding IDSs in the pending applications of the Applicant. SPE Hjerpe said that he had met with the directors of the groups examining the Applicant's pending applications regarding IDSs being filed by the Applicant. SPE Hjerpe stated that the Directors had decided that, when an IDS is relevant to multiple applications, the Applicant should file an individual IDS in each relevant application and that the Applicant should file three copies of each patent and nonpatent reference with SPE Hjerpe. This will make it more convenient for the Applicant and for the PTO. SPE Hjerpe suggested that the Applicant select an application and direct the copies of the references to that application for convenience. The Applicant has selected the instant application identified above.

SPE Richard Hjerpe and Mr. Vincent Turner spoke on the telephone on February 2, 1999. SPE Hjerpe suggested that the Applicant deliver the copies of the references to his office in room 6R01, in Crystal Park 2, on the sixth floor, at the PTO.

Respectfully submitted,

Dated: February 2, 1999



Vincent Turner

Registration No. 40,419

P.O. Box 33189

Las Vegas, NV 89133

Phone (702) 396-4670

## **Exhibit 3. IDS per Mr. Hjerpe's request**



**BEST AVAILABLE COPY**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re Application of )

GILBERT P. HYATT )

Serial No. 08/457,362 )

Docket No. 716 )

Filed: June 1, 1995 )

For: IMPROVED IMAGE PROCESSING )  
ARCHITECTURE )

**RECEIVED**

FEB 19 2002

Technology Center 2600

INFORMATION DISCLOSURE STATEMENT

Hon. Assistant Commissioner  
For Patents  
Washington, D.C. 20231

Transmitted herewith is an Information Disclosure Citation (IDC) listing references for consideration by the Examiner.

The Applicant requests consideration by the Examiner of the references listed on the IDC transmitted herewith and initialing of the references listed on the IDC.

Copies of the listed references are being filed in the PTO contemporaneously herewith.

The listed references are relevant because they were cited by examiners in copending applications of the Applicant.

The instant Information Disclosure Statement is filed in accordance with directions provided by the PTO.<sup>1</sup>

1. See the Telephone Conference Record dated February 2, 1999 regarding telephone conversations between SPE Hjerpe and Mr. Turner that took place on December 10, 1998 and February 2, 1999; which Telephone Conference Record was filed with other IDSs of record.



BEST AVAILABLE COPY

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FEB 19 2002  
Technology Center 2600


I hereby certify that each of the listed references was cited in one of the actions in the copending applications listed hereinafter, which actions were received no more than three months prior to the mailing of this statement.

| <u>DKT.</u> | <u>SERIAL NO.</u> | <u>DKT.</u> | <u>SERIAL NO.</u> |
|-------------|-------------------|-------------|-------------------|
| 408         | 08/467,471        | 764         | 08/466,992        |
| 554         | 08/470,879        | 772         | 08/469,262        |
| 614         | 08/462,919        | 773         | 08/469,261        |
| 732         | 08/458,608        | 787         | 08/471,425        |
| 734         | 08/461,567        | 790         | 08/469,889        |
| 738         | 08/460,172        | 793         | 08/470,569        |
| 744         | 08/460,718        |             |                   |

CERTIFICATION OF MAILING BY EXPRESS MAIL: I hereby certify that this correspondence is being deposited with the United States Postal Service with Express Mail post office to addressee service under 37 CFR 1.10, postage prepaid, in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 with the express mail label number EL819238669 on February 8, 2002.

Respectfully submitted,

Dated: February 8, 2002

  
 Gilbert P. Hyatt  
 Registration No. 27,647  
 P.O. Box 81230  
 Las Vegas, NV 89180  
 Phone (702) 871-9899

## **Exhibit 4. “Bulk Filers” Art Unit 2625**



http://www.uspto.gov/web/patents/contacts/tcmgrs.htm

Go

92 captures

3 Jan 06 - 17 Aug 14

JAN FEB MAR  
2012 10 2013 2014

Robert Childs

571-272-6410

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[Return to Top](#)

2615

Bulk Filers

571-272-4650

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Art Unit

Supervisory Patent Examiner (SPE)

Telephone

2615

Diego Gutierrez

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[Return to Top](#)

2630

Digital Communications

571-272-4650

Director, Derris Banks





Administrative Officers  
INTERNET ARCHIVE  
waybackmachine

92 captures  
3 Jan 06 - 17 Aug 14

http://www.uspto.gov/web/patents/contacts/tcmgrs.htm

Go

FEB APR JUN  
2012 15 2013 2014

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|-------------------------------------|--------------|
| Wellington Chin                     | 571-272-3134 |
| John Peng                           | 571-272-7272 |
| Michael Horabik                     | 571-272-3068 |
| Kenneth A. Wieder                   | 571-272-2986 |
| Doris To                            | 571-272-7629 |
| Daniel Swerdlow                     | 571-272-7531 |

[Return to Top](#)

| TTSS Managers, HSAE's, Team Leads                          | Telephone    |
|--|--------------|
| HSLIE Supervisory Legal Instruments Examiner Earline Green | 571-272-2993 |
| Team 1 John W. Epps  | 571-272-3006 |
| Team 3 Kimberly D. Williams                                | 571-272-7282 |
| Team 4 Sharone Moore                                       | 571-272-7269 |
| Team 2 Sharon West   | 571-272-2996 |

[Return to Top](#)


|      |                                       |              |
|------|---------------------------------------|--------------|
| 2615 | Bulk Filers<br>Director, Derris Banks | 571-272-4650 |
|------|---------------------------------------|--------------|

| Art Unit | Supervisory Patent Examiner (SPE) | Telephone    |
|----------|-----------------------------------|--------------|
| 2615     | Gregory Morse                     | 571-272-3838 |

[Return to Top](#)

|      |  |              |
|------|--|--------------|
| 2630 | Digital Communications<br>Director, Derris Banks | 571-272-4650 |
|------|--|--------------|

|  |  |  |
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Wayback Machine  
92 captures  
3 Jan 06 - 17 Aug 14  
http://www.uspto.gov/web/patents/contacts/tcmgrs.htm  
Go  
OCT NOV DEC  
2012 6 2013 2014

#### TTSS Managers, HSAE's, Team Leads

|  | Telephone    |
|--|--------------|
| HSLIE Supervisory Legal Instruments Examiner Earline Green | 571-272-2993 |
| Team 1 John W. Epps  | 571-272-3006 |
| Team 3 Kimberly D. Williams                                | 571-272-7282 |
| Team 4 Sharone Moore                                       | 571-272-7269 |
| Team 2 Sharon West   | 571-272-2996 |

[Return to Top](#)

2615 Bulk Filers 571-272-4650  
Director, Tariq Hafiz

| Art Unit | Supervisory Patent Examiner (SPE) | Telephone    |
|----------|-----------------------------------|--------------|
| 2615     | Gregory Morse                     | 571-272-3838 |

[Return to Top](#)

2630 Digital Communications 571-272-4650  
Director, Derris Banks

| Art Unit | Supervisory Patent Examiner (SPE) | Telephone    |
|----------|-----------------------------------|--------------|
| 2631     | Shuwang Liu                       | 571-272-3036 |
| 2632     | David Payne                       | 571-272-3024 |
| 2632     | Chieh Fan                         | 571-272-3042 |
| 2633     | Sam Ahn                           | 571-272-3044 |
| 2634     | Daniel Washburn                   | 571-272-5551 |

[Return to Top](#)



## **Exhibit 5. SAWS Criteria**



UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND  
TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
WWW.USPTO.GOV

DATE: May 15, 2002

TO: Patent Examining Group Directors

FROM: Esther Kepplinger  
Deputy Commissioner for Patent Operations

SUBJECT: Sensitive Application Warning System (SAWS) Program

The following reminders are being distributed about the SAWS program:

- Each Technology Center will distribute a SAWS memo to examiners at least semi-annually. The memo will briefly describe the SAWS program and will list both general Corps-wide SAWS criteria as well as Technology Center-specific SAWS criteria.
- Independent of the SAWS program, examiners should be encouraged to bring to their supervisor's attention any application that raises issues that they are uncertain how to handle, e.g. simple inventions for which art cannot be located.
- Each Technology Center will continue to use or implement an internal-TC tracking and/or flagging system.
- SAWS cases that have been through the TC-screening process and are at the allowance stage should be brought by the Director or his/her designee to the attention of the Deputy Commissioner for Patent Operations and the Deputy Commissioner for Patent Examination Policy.

SAWS Program Management Guidelines are attached.

Attachments: Management Guidelines for the SAWS Program

### Management Guidelines for SAWS Program

- I. Program Overview
- II. Operational Overview
  - A. Corps-wide SAWS Subject Matter
  - B. Recommended Technology Center Practices
- III. Miscellaneous Issues
  - A. Pre-Grant Publication (PG-PUBS)

#### **I. PROGRAM OVERVIEW:**

The SAWS program is designed to assist in processing of patent applications identified as claiming subject matter of special interest, that, if issued, would potentially generate high publicity or would potentially have a strong impact in the patent community. It is also an information gathering system to apprise various segments of the USPTO of these patent applications.

As a program to assist in processing of patent applications, it is intended to ensure that the examination standards and guidelines are applied properly to such applications that include sensitive or noteworthy subject matter.

As an information gathering system, the SAWS program should be identifying applications that, if issued as a patent, would be controversial or noteworthy.

The initial identification of SAWS applications is performed by the examiners (may also include managers and classifiers). Therefore, it is important that examiners are well informed about this program and the identification criteria.

**Independent of the SAWS program, examiners should be encouraged to bring to their supervisor's attention any application that raises issues that they are uncertain how to handle.** Supervisors are responsible for determining which applications proceed through the SAWS program versus those applications having other issues which are normally addressed by existing examination procedures and established examination guidelines.

#### **II. OPERATIONAL OVERVIEW:**

It is recommended that the TCs handle the SAWS program based upon a tiered process of application identification. This process may utilize Examiners and SPEs to identify these applications, and a SAWS screening committee to verify their status.

Applications which have been identified and verified as containing SAWS material are reported the TC Group Director, and as needed, forwarded to the Deputy Commissioner for Patent Operations and the Deputy Commissioner for Patent Examination Policy prior to allowance.

### **A. Corps-wide Potential SAWS Subject Matter**

The following subject matter has been determined to be criteria for identifying potential SAWS applications throughout the Patent Corps.

1. Applications which have old effective filing dates (pre 6/8/1995, i.e. pre-GATT) and claims of broad scope (submarines);
2. Applications with pioneering scope;
3. Applications dealing with inventions, which if issued would potentially generate extensive media coverage;
4. Applications which have objectionable or derogatory subject matter in the specification and/or drawing(s);
5. Applications having claims defining inventions which would endanger individuals, the environment, harm the security of our nation or threaten public safety;
6. Commissioner-ordered re-exams, except those ordered because of prior art timely filed, but not considered, before the patent issued, or for prior art submitted under 37 CFR §1.501;
7. Applications claiming a method or apparatus to take a human life (e.g. suicide machine, abortion);
8. Applications claiming a motor or power plant which is self-sustaining (perpetual motion) or appears to violate the laws of physics (e.g. antigravity, faster than the speed of light, etc.);
9. Applications claiming the prevention or curing of diseases which were previously considered impossible to prevent or cure; and
10. Human cloning.

### **B. Technology Center Recommended Practices:**

1. Examiners are the first line of review since they are the most knowledgeable about the pending claims and application issues. Examiners will report potential SAWS cases to their SPE. Upon approval of the SPE, a person designated by the technology center will enter the SAWS case into the appropriate TC tracking system.
2. A reminder and an updated SAWS criteria list will be distributed, at least semi-annually, to examiners to stress the importance of SAWS application identification.
3. Flagging an identified SAWS application in PALM to ensure that the case does not issue until the flag has been removed.

4. Utilizing a TC-specific screening mechanism to remove non-SAWS applications from their SAWS designation. This screening mechanism permits a second review and will result in a recommendation as to whether the application contains SAWS subject matter. The screening mechanism can be performed by a committee made up of SPEs representing a cross section of the Technology Center and a SPRE or a QAS.
5. Applications that have been through the TC screening mechanism and have been identified as SAWS cases will be brought to the attention of the TC Group Director. The Group Director will bring them to the attention of the Deputy Commissioner for Patent Operations and the Deputy Commissioner for Patent Examination Policy.
6. For uniformity and process improvements, a SPRE, QAS, or a SAWS TC-screening committee should be utilized. A SPRE, QAS, or a SAWS TC-screening committee will be tasked to periodically review the SAWS processing guidelines and criteria to continually update and revise the program as needed.
7. Placing a PALM Flag on subject classes which encompass sensitive subject matter until a review of these cases is performed upon allowance (such as business methods, class 705).

### **III. MISCELLANEOUS ISSUES**

#### **A. Pre-Grant Publication**

Pre-grant publication should not warrant SAWS consideration. Applications published under Pre-grant publication are published “as-filed” and the claims, as-published, have not gone through any examination.

A separate procedure for determining acceptability of what gets published under Pre-grant publication is being established.

SAWS Committee members and Contacts

1600

Brian Stanton

1700

Doug McGinty

Kat Gorgos

2100

Jack Harvey

Tod Swann

2600

Tommy Chin

John Peng

2800

Hien Phan

Clayton LaBalle

3600

Randy Reese

Ken Dorner

Dave Mitchell

3700

Derris Banks

Cliff Crowder

Paul Sewell

Hank Recla



## **Exhibit 6. SAWS Decision process and OPLA's practice of withdrawing patentable applications from issue**

LeGuyader, John

---

**From:** LeGuyader, John  
**Sent:** Friday, March 02, 2012 2:13 PM  
**To:** Bragdon, Kathleen; Stone, Jacqueline  
**Subject:** Re: Saws

Not ultimately my call but I would say no. 1600 is the outlier with this issue and that might be the only area I personally would want to know. 1600 would be emblematic of the OPLA issue is there is one at all.

---

**From:** Bragdon, Kathleen  
**Sent:** Friday, March 02, 2012 02:05 PM  
**To:** LeGuyader, John; Stone, Jacqueline  
**Subject:** RE: Saws

I would need to check w/each TC individually. We track how many are in SAWS status every month, but we don't track "why" they leave (OPLA approved, OPLA asked for changes to allow, OPLA said "no way").

I you want me to check, I just need to know what to ask them. I can think of the below that might get at what you want? Some variation of this?

How many went for SAWS review? (time frame?)

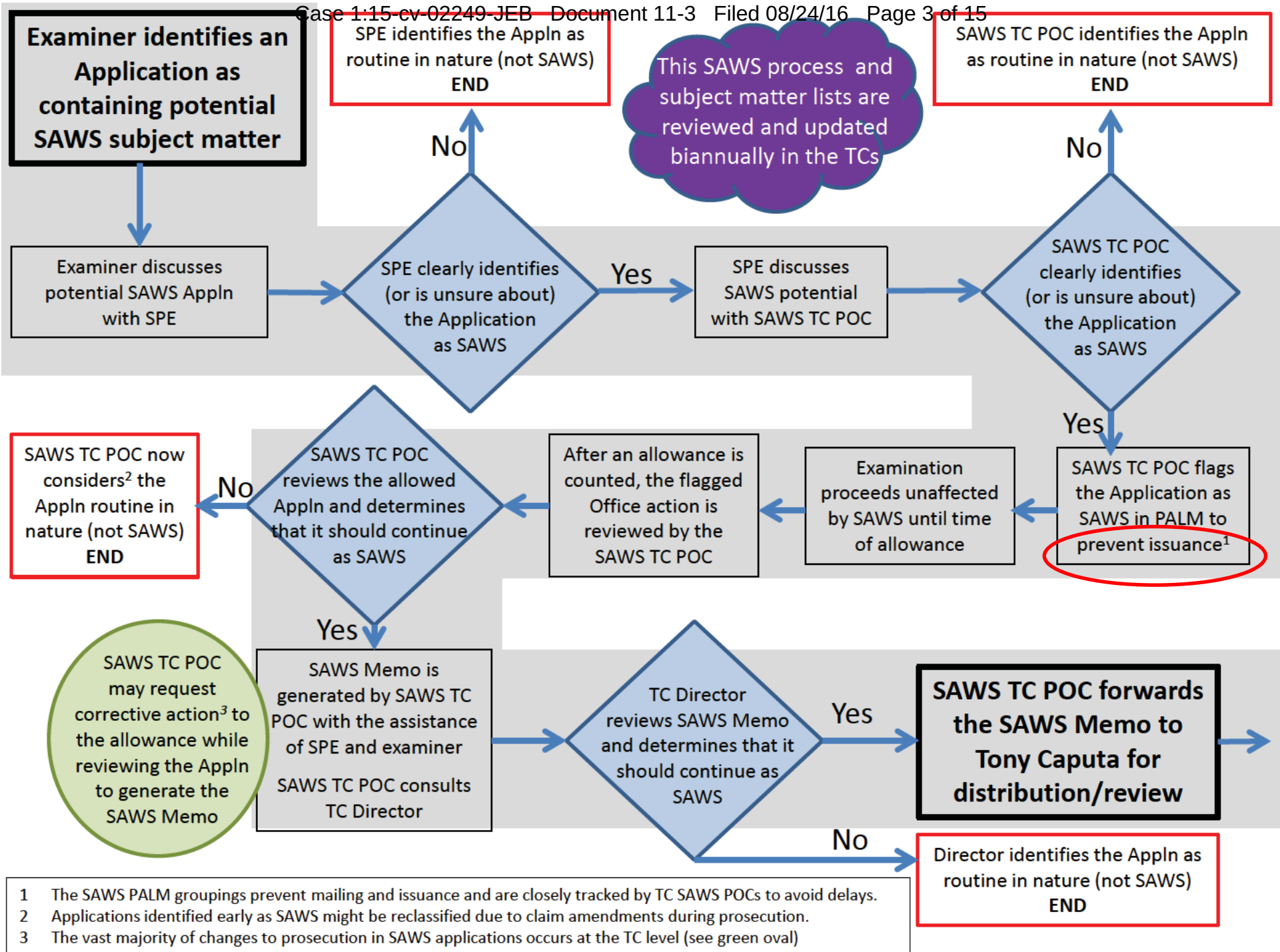
- How many cleared SAWS review w/out any issues?
- How many cleared SAWS review (as is) after working with the TC?
- How many only cleared after changes?
- How many were could not get allowed (had to be withdrawn from issue)?

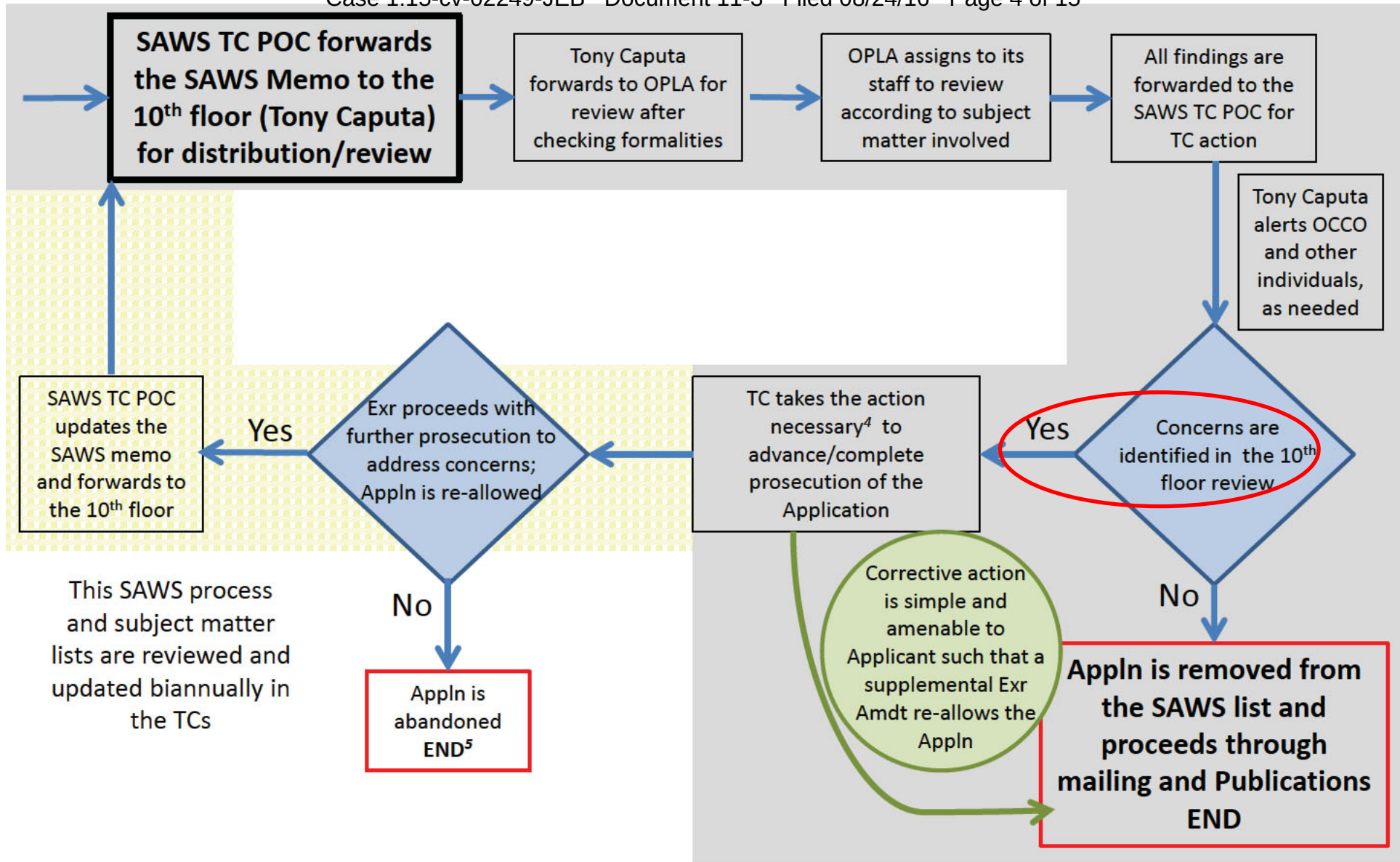
I can't imagine Tony keeps any kinds of records, he just seems to forward to OPLA and forward back from them.

Original Message

**From:** LeGuyader, John  
**Sent:** Friday, March 02, 2012 11:12 AM  
**To:** Stone, Jacqueline; Bragdon, Kathleen  
**Subject:** RE: Saws

And since Tony Caputa is the 10th floor gate keeper on this (he receives for the 10th floor a SAWS from a TC at the director' discretion and handles as deemed necessary including forwarding to OPLA), he may have a better idea.





4 Necessary action can include specific claim amendments to address OPLA's concerns that Applicant might agree to (see green circle which expedites allowance), reinstating a previous (improperly dropped) rejection, and reopening to apply a new rejection.

5 Often ABN applications remain on the SAWS list in case they are revived; these cases are removed when provided statistics of pending SAWS cases

## **Exhibit 7. Telephone conference with Mr. Razavi**



#15  
6/24/97  
JS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                                |   |                            |
|--------------------------------|---|----------------------------|
| In re Application of           | ) |                            |
| GILBERT P. HYATT               | ) | Group Art Unit: 2613       |
| Serial No. 08/458,141          | ) | Examiner: Gerard Del Rosso |
| (See Appendix-I for 99 other   | ) | Joseph Mancouso            |
| applications)                  | ) | Larry Prikockis            |
| Docket No. 700                 | ) | Bipin Shalwala             |
| Filed: June 1, 1995            | ) | Chanh Nguyen               |
| For: IMPROVED IMAGE PROCESSING | ) | Jon Chang                  |
| ARCHITECTURE                   | ) | Team Exam-Six              |

TELEPHONE CONFERENCE RECORD

Hon. Assistant Commissioner  
For Patents  
Washington, D.C. 20231

RECEIVED  
MAY 12 97  
GROUP 2600

Sir:

This transmittal is submitted for filing in each of the 100 applications listed in Appendix-I.

If separate copies of this document are needed for placement in the file wrapper of each of the applications identified in Appendix-I, the Applicant will promptly provide same upon notice that such is necessary.

This is a telephone conference record. On March 24, 1997; the Applicant's representative, Mr. Vincent Turner, telephoned Mr. Michael Razavi, SPE of Art Unit 2613, and inquired about the procedure for filing a Conforming Amendment in each of 100 pending related application that are pending in SPE Razavi's art unit. SPE Razavi requested a draft copy of the Conforming Amendment and the Applicant transmitted by facsimile a draft copy on March 24, 1997. A copy of this draft copy of the Conforming Amendment is attached hereto as Exhibit A.



SPE Razavi telephoned Mr. Turner on April 15, 1997 and told Mr. Turner that the Conforming Amendment was acceptable and would be entered in the 100 related applications. SPE Razavi telephoned Mr. Turner on April 18, 1997 and told Mr. Turner that the Conforming Amendments in the 100 related applications should be filed in each application as a separate paper.

Respectfully submitted,

Dated: April 22, 1997

Vincent Turner  
Vincent Turner  
Registration No. P-40,419  
P.O. Box 36370  
Las Vegas, NV 89133  
Phone (702) 396-4670

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                                |   |                      |
|--------------------------------|---|----------------------|
| In re Application of           | ) |                      |
|                                | ) |                      |
| GILBERT P. HYATT               | ) | Group Art Unit: 2613 |
|                                | ) |                      |
| Serial No. 08/458,141          | ) |                      |
| (See Appendix-I for            | ) |                      |
| 45 other applications)         | ) |                      |
|                                | ) |                      |
| Docket No. 700                 | ) |                      |
|                                | ) |                      |
| Filed: June 1, 1995            | ) |                      |
|                                | ) |                      |
| For: IMPROVED IMAGE PROCESSING | ) |                      |
| ARCHITECTURE                   | ) |                      |
|                                | ) |                      |

---

TELEPHONE CONFERENCE RECORD

Hon. Assistant Commissioner  
For Patents  
Washington, D.C. 20231

Sir:

This is a telephone conference record for each of the 46 patent applications listed in Appendix-I.

The Applicant's representative, Mr. Vincent Turner, telephoned SPE Razavi on August 12, 1997. Mr. Turner left a message that amendments had been filed on August 11, 1997 in 46 related applications that are pending in SPE Razavi's art unit. SPE Razavi telephoned Mr. Turner on August 18, 1997 and told Mr. Turner that he had received the telephone message on August 12, 1997. SPE Razavi asked Mr. Turner to send by facsimile the serial numbers of those 46 applications. Mr. Turner agreed.

Attached hereto in Appendix-I is a list of the serial numbers in the 46 above discussed patent applications.

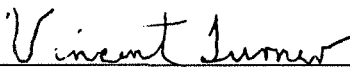
If separate copies of this Telephone Conference Record are necessary for placement in the file wrapper of each of the 46 applications identified in Appendix-I, the Applicant will promptly provide same upon notice that such is necessary.



CERTIFICATION OF TRANSMISSION: I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 308-5397) on August 19, 1997.

Respectfully submitted,

Dated: August 19, 1997



---

Vincent Turner  
Registration No. 40,419  
P.O. Box 36370  
Las Vegas, NV 89133  
Phone (702) 396-4670

APPENDIX-I

| <u>DKT.</u><br><u>NO.</u> | <u>SERIAL</u><br><u>NO.</u> |
|---------------------------|-----------------------------|
| 700                       | 08/458,141                  |
| 703                       | 08/458,142                  |
| 704                       | 08/456,339                  |
| 705                       | 08/457,360                  |
| 707                       | 08/457,726                  |
| 710                       | 08/457,448                  |
| 714                       | 08/458,104                  |
| 716                       | 08/457,362                  |
| 717                       | 08/456,398                  |
| 720                       | 08/456,296                  |
| 722                       | 08/458,006                  |
| 724                       | 08/459,158                  |
| 725                       | 08/460,607                  |
| 727                       | 08/459,152                  |
| 729                       | 08/460,737                  |
| 731                       | 08/460,705                  |
| 733                       | 08/460,433                  |
| 735                       | 08/459,221                  |
| 736                       | 08/458,206                  |
| 738                       | 08/460,172                  |
| 739                       | 08/458,549                  |
| 742                       | 08/465,083                  |
| 744                       | 08/460,718                  |
| 745                       | 08/460,753                  |
| 746                       | 08/459,648                  |
| 750                       | 08/463,824                  |
| 751                       | 08/464,034                  |
| 756                       | 08/465,071                  |
| 760                       | 08/465,072                  |
| 766                       | 08/465,200                  |
| 776                       | 08/466,600                  |
| 777                       | 08/466,599                  |
| 778                       | 08/469,407                  |
| 780                       | 08/471,542                  |
| 781                       | 08/469,321                  |
| 782                       | 08/471,695                  |
| 784                       | 08/471,600                  |
| 785                       | 08/471,701                  |
| 786                       | 08/471,123                  |
| 788                       | 08/471,136                  |
| 789                       | 08/469,580                  |
| 790                       | 08/469,889                  |
| 793                       | 08/470,569                  |
| 795                       | 08/469,592                  |
| 797                       | 08/471,255                  |
| 798                       | 08/471,042                  |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                                |   |                      |
|--------------------------------|---|----------------------|
| In re Application of           | ) |                      |
|                                | ) |                      |
| GILBERT P. HYATT               | ) | Group Art Unit: 2714 |
|                                | ) |                      |
| Serial No. 08/458,141          | ) |                      |
| (and 99 other applications     | ) |                      |
| as listed in Appendix I)       | ) |                      |
|                                | ) |                      |
| Docket No. 700                 | ) |                      |
|                                | ) |                      |
| Filed: June 1, 1995            | ) |                      |
|                                | ) |                      |
| For: IMPROVED IMAGE PROCESSING | ) |                      |
| ARCHITECTURE                   | ) |                      |
|                                | ) |                      |

**Received**  
**FEB 09 1998**  
**Group 2700**

TELEPHONE CONFERENCE RECORD

Hon. Assistant Commissioner  
 For Patents  
 Washington, D.C. 20231

Sir:

The Applicant's representative, Mr. Vincent Turner, telephoned SPE Michael Razavi on December 3, 1997. Mr. Turner told Mr. Razavi that the Applicant had prepared a Conforming Amendment and a Supplemental Amendment for each of 100 applications, a list of the 100 applications is provided in Appendix I attached hereto. Mr. Turner asked Mr. Razavi if he would review and comment on a draft of the amendments, for efficiency of examination, before the Applicant filed the amendments. Mr. Razavi agreed to review the draft amendments.

In response thereto the Applicant sent a copy of the draft amendments by facsimile to Mr. Razavi on December 5, 1997. A copy of this facsimile is attached hereto as Appendix A.

Mr. Turner telephoned Mr. Razavi on January 14, 1998 regarding the draft amendments. Mr. Razavi said that he had reviewed the draft amendments and that he found them to be acceptable and that they would be entered if filed in the individual cases. Mr. Turner said that the Applicant would file the amendments in the individual cases in due course.

CERTIFICATION OF MAILING BY EXPRESS MAIL: I hereby certify that this correspondence is being deposited with the United States Postal Service with Express Mail post office to addressee service under 37 CFR 1.10, postage prepaid, in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 with the express mail label number EM375192259 on February 2, 1998.

Respectfully submitted,

Dated: February 2, 1998

Vincent Turner  
Vincent Turner  
Registration No. 40,419  
P.O. Box 36370  
Las Vegas, NV 89133  
Phone (702) 396-4670

## **Exhibit 8. Excerpt of an amendment per Mr. Razavi's instructions**



#15  
6/24/97  
RS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                                |   |                            |
|--------------------------------|---|----------------------------|
| In re Application of           | ) |                            |
| GILBERT P. HYATT               | ) | Group Art Unit: 2613       |
| Serial No. 08/458,141          | ) | Examiner: Gerard Del Rosso |
| (See Appendix-I for 99 other   | ) | Joseph Mancouso            |
| applications)                  | ) | Larry Prikockis            |
| Docket No. 700                 | ) | Bipin Shalwala             |
| Filed: June 1, 1995            | ) | Chanh Nguyen               |
| For: IMPROVED IMAGE PROCESSING | ) | Jon Chang                  |
| ARCHITECTURE                   | ) | Team Exam-Six              |

TELEPHONE CONFERENCE RECORD

Hon. Assistant Commissioner  
For Patents  
Washington, D.C. 20231

RECEIVED  
MAY 12 97  
GROUP 2600

Sir:

This transmittal is submitted for filing in each of the 100 applications listed in Appendix-I.

If separate copies of this document are needed for placement in the file wrapper of each of the applications identified in Appendix-I, the Applicant will promptly provide same upon notice that such is necessary.

This is a telephone conference record. On March 24, 1997; the Applicant's representative, Mr. Vincent Turner, telephoned Mr. Michael Razavi, SPE of Art Unit 2613, and inquired about the procedure for filing a Conforming Amendment in each of 100 pending related application that are pending in SPE Razavi's art unit. SPE Razavi requested a draft copy of the Conforming Amendment and the Applicant transmitted by facsimile a draft copy on March 24, 1997. A copy of this draft copy of the Conforming Amendment is attached hereto as Exhibit A.

SPE Razavi telephoned Mr. Turner on April 15, 1997 and told Mr. Turner that the Conforming Amendment was acceptable and would be entered in the 100 related applications. SPE Razavi telephoned Mr. Turner on April 18, 1997 and told Mr. Turner that the Conforming Amendments in the 100 related applications should be filed in each application as a separate paper.

Respectfully submitted,

Dated: April 22, 1997

Vincent Turner

Vincent Turner  
Registration No. P-40,419  
P.O. Box 36370  
Las Vegas, NV 89133  
Phone (702) 396-4670

## **Exhibit 9. PTO Suspension of examination**





UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 08/471,070      | 06/06/1995  | GILBERT P. HYATT     | 547                 | 8145             |

|                 |  |
|-----------------|--|
| EXAMINER        |  |
| RAZAVI, MICHAEL |  |

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
| 2628     |              |

|            |               |
|------------|---------------|
| MAIL DATE  | DELIVERY MODE |
| 05/02/2007 | PAPER         |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



**UNITED STATES DEPARTMENT OF COMMERCE**  
**U.S. Patent and Trademark Office**  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450

|                                |             |   |                     |
|--------------------------------|-------------|---|---------------------|
| APPLICATION NO/<br>CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR /<br>PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|--------------------------------|-------------|---|---------------------|

|          |
|----------|
| EXAMINER |
|----------|

|          |       |
|----------|-------|
| ART UNIT | PAPER |
|----------|-------|

20070402

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

A court decision relevant to the examination of this application will be rendered soon. Ex parte prosecution is **SUSPENDED FOR A PERIOD OF 6 MONTHS** from the date of this letter. Upon expiration of the period of suspension, applicant should make an inquiry as to the status of the application.

Any inquiry concerning this communication should be directed to Michael Razavi at telephone number (571) 272-7664.

Andrew Christensen  
 Acting Director  
 Technology Center 2600

## **Exhibit 10. Events in the 80 appealed applications**

| Case Index | Family | Docket No. | Filing Date | Prior Appeal Brief Filed | Prior Appeal Concluded,<br>reopen prosecution | Last Action Issued | Notice of Appeal Filed | Appeal Brief Filed | Reopen Prosecution<br>(PTO's version) | PTO's Suspensions  | Mr. Hyatt's Petitions | Application filing fees | Total Excess Claims Fees | Total Appeal Fees | Sum of PTO Fess Paid | "Bulk Filers" Group 2615 |
|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|--|-----------------------|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 1          | 370    | 379        | 05/31/95    |                          |   | 07/18/01           | 01/18/02               | 07/05/02           | 09/18/13                              | 04/25/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11  | 01/20/05              | \$730                   | \$11,776                 | \$640             | \$13,146             | √                        |
| 2          | 410    | 411        | 04/06/95    | 06/22/01                 | 05/31/02                                      | 01/17/07           | 06/18/07               | 11/16/07           | 09/17/13                              | 07/31/02,<br>01/31/03,<br>08/07/03,<br>05/03/07,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11              | 03/30/09              | \$730                   | \$18,250                 | \$1,130           | \$20,110             | √                        |
| 3          | 410    | 415        | 04/10/95    |                          |   | 11/29/07           | 05/29/08               | 12/01/08           | 09/17/13                              | 07/31/02,<br>01/31/03,<br>08/07/03,<br>10/05/04,<br>05/03/07,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$730                   | \$16,706                 | \$860             | \$18,296             | √                        |
| 4          | 410    | 416        | 04/06/95    | 08/07/97                 | 02/18/98                                      | 01/29/07           | 07/30/07               | 11/21/07           | 09/17/13                              | 07/31/02,<br>01/31/03,<br>08/07/03,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11                           | 03/30/09              | \$730                   | \$17,296                 | \$1,610           | \$19,636             | √                        |
| 5          | 410    | 420        | 04/10/95    | 09/09/97                 | 12/12/97                                      | 07/11/06           | 01/04/07               | 07/02/07           | 09/18/13                              | 07/31/02,<br>01/31/03,<br>08/07/03,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11                           | 03/30/09              | \$730                   | \$19,024                 | \$1,600           | \$21,354             | √                        |
| 6          | 410    | 422        | 04/10/95    | 08/18/97                 | 06/12/02                                      | 05/09/06           | 07/13/07               | 11/28/07           | 09/17/13                              | 03/28/03,<br>09/22/03,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11  | 01/19/01,<br>03/30/09 | \$730                   | \$15,296                 | \$1,610           | \$17,636             | √                        |
| 7          | 410    | 423        | 04/10/95    | 09/10/97                 | 11/19/97                                      | 07/05/06           | 01/04/07               | 07/02/07           | 09/17/13                              | 07/31/02,<br>01/31/03,<br>08/07/03,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11                           | 03/30/09              | \$730                   | \$18,480                 | \$1,600           | \$20,810             | √                        |

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|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|---|-----------------------|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 8          | 410    | 424        | 04/10/95    | 08/12/97                 | 12/04/97                                      | 02/02/07           | 07/30/07               | 11/16/07           | 09/17/13                              | 07/31/02,<br>01/31/03,<br>08/07/03,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11  | 03/30/09              | \$730                   | \$17,826                 | \$1,610           | \$20,166             | √                        |
| 9          | 410    | 425        | 04/12/95    | 08/11/97                 | 06/05/02                                      | 10/23/06           | 04/23/07               | 10/22/07           | 09/17/13                              | 03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11  | 1/19/01,<br>3/30/09   | \$730                   | \$15,998                 | \$1,610           | \$18,338             | √                        |
| 10         | 410    | 427        | 04/17/95    |                          |   | 12/27/06           | 05/29/07               | 10/26/07           | 09/17/13                              | 08/01/02,<br>01/31/03,<br>03/14/03,<br>09/24/03,<br>04/24/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11 | 03/30/09              | \$730                   | \$18,742                 | \$1,010           | \$20,482             | √                        |
| 11         | 410    | 428        | 04/17/95    | 08/11/97                 | 10/05/04                                      | 05/17/06           | 11/17/06               | 05/21/07           | 09/16/13                              | 07/31/02,<br>01/31/03,<br>08/07/03,<br>07/11/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11              | 1/19/01,<br>3/30/09   | \$730                   | \$15,134                 | \$1,600           | \$17,464             | √                        |
| 12         | 410    | 429        | 04/17/95    |                          |   | 02/12/07           | 08/13/07               | 11/13/07           | 09/17/13                              | 07/31/02,<br>01/31/03,<br>08/07/03,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11  | 03/30/09              | \$730                   | \$15,518                 | \$1,010           | \$17,258             | √                        |
| 13         | 410    | 441        | 06/05/95    |                          |   | 08/21/03           | 01/21/04               | 07/20/04           | 10/25/13                              | 04/23/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11   | 08/28/07,<br>03/30/09 | \$365                   | \$7,039                  | \$330             | \$7,734              | √                        |
| 14         | 450    | 406        | 06/05/95    |                          |   | 03/01/05           | 08/31/05               | 02/28/06           | 10/24/13                              | 04/25/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11   | 08/28/07,<br>03/30/09 | \$365                   | \$9,014                  | \$500             | \$9,879              | √                        |

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|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|---|---|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 15         | 450    | 465        | 05/03/95    |                          |   | 05/21/03           | 11/21/03               | 05/13/04           | 10/24/13                              | 05/11/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11                           | 12/21/04,<br>08/28/07,<br>03/30/09              | \$365                   | \$7,198                  | \$330             | \$7,893              | √                        |
| 16         | 450    | 467        | 05/05/95    |                          |   | 07/30/03           | 12/30/03               | 06/24/04           | 10/24/13                              | 04/24/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11                           | 12/21/04,<br>08/28/07,<br>03/30/09              | \$365                   | \$7,318                  | \$330             | \$8,013              | √                        |
| 17         | 450    | 490        | 06/05/95    |                          |   | 09/09/04           | 02/09/05               | 08/09/05           | 10/25/13                              | 04/23/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11                           | 08/28/07,<br>03/30/09                           | \$365                   | \$7,721                  | \$500             | \$8,586              | √                        |
| 18         | 450    | 494        | 06/05/95    |                          |   | 04/13/07           | 10/11/07               | 04/09/08           | 10/25/13                              | 12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11   | 03/30/09  | \$365                   | \$4,599                  | \$510             | \$5,474              | √                        |
| 19         | 450    | 495        | 06/05/95    |                          |   | 05/16/05           | 11/14/05               | 03/16/06           | 10/24/13                              | 04/23/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11                           | 08/28/07,<br>03/30/09                           | \$365                   | \$10,446                 | \$500             | \$11,311             | √                        |
| 20         | 500    | 547        | 06/06/95    |                          |   | 04/19/01           | 10/19/01               | 04/22/02           | 05/21/04                              | 07/31/02,<br>01/31/03,<br>05/02/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 01/20/05,<br>03/28/07,<br>10/15/07,<br>03/30/09 | \$365                   | \$5,601                  | \$320             | \$6,286              | √                        |

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|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|--|-----------------------|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 21         | 550    | 337        | 06/21/90    |                          |   | 05/19/04           | 11/19/04               | 04/15/05           | 10/10/13                              | 12/02/92,<br>08/18/93,<br>04/14/94,<br>03/20/96,<br>12/31/98,<br>04/17/07,<br>07/23/08,<br>05/01/09,<br>08/02/10,<br>05/16/12,<br>08/12/91,<br>04/16/92,<br>03/20/95,<br>12/24/96,<br>11/30/07,<br>01/07/10,<br>03/29/11 | 08/28/07,<br>03/30/09 | \$185                   | \$9,202                  | \$420             | \$9,807              | √                        |
| 22         | 550    | 551        | 06/06/95    |                          |   | 06/12/03           | 11/12/03               | 05/12/04           | 03/21/06                              | 04/17/07,<br>04/14/09,<br>02/19/10,<br>07/06/11,<br>03/02/12,<br>12/20/07,<br>09/23/08,<br>10/07/10  | 08/28/07,<br>03/30/09 | \$730                   | \$16,396                 | \$660             | \$17,786             | √                        |
| 23         | 550    | 553        | 06/06/95    |                          |   | 11/17/03           | 01/06/05               | 10/26/05           | 10/11/13                              | 04/17/07,<br>04/14/09,<br>02/19/10,<br>07/06/11,<br>03/02/12,<br>12/20/07,<br>09/25/08,<br>10/07/10  | 08/28/07,<br>03/30/09 | \$730                   | \$17,392                 | \$1,000           | \$19,122             | √                        |
| 24         | 550    | 559        | 06/06/95    |                          |   | 05/24/04           | 11/24/04               | 05/10/05           | 10/10/13                              | 04/18/07,<br>04/14/09,<br>02/19/10,<br>07/06/11,<br>03/02/12,<br>12/20/07,<br>09/23/08,<br>10/07/10  | 08/28/07,<br>03/30/09 | \$730                   | \$14,748                 | \$840             | \$16,318             | √                        |
| 25         | 550    | 560        | 06/06/95    |                          |   | 04/28/05           | 10/19/06               | 05/31/07           | 10/10/13                              | 06/04/96,<br>05/10/99,<br>07/23/08,<br>05/01/09,<br>08/02/10,<br>05/16/12,<br>12/05/07,<br>01/07/10,<br>03/29/11,<br>10/13/11  | 08/28/07              | \$730                   | \$18,302                 | \$1,000           | \$20,032             | √                        |

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|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|--|------------------------------------|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 26         | 550    | 564        | 06/06/95    |                          |   | 10/02/03           | 02/02/04               | 08/02/04           | 03/21/06                              | 04/17/07,<br>04/14/09,<br>08/02/10,<br>05/16/12,<br>12/20/07,<br>09/23/08,<br>01/07/10,<br>03/29/11,<br>10/13/11 | 08/28/07,<br>03/30/09              | \$730                   | \$15,424                 | \$660             | \$16,814             | √                        |
| 27         | 550    | 568        | 06/06/95    |                          |   | 10/02/03           | 02/02/04               | 08/02/04           | 03/21/06                              | 04/17/07,<br>04/14/09,<br>08/02/10,<br>05/16/12,<br>12/20/07,<br>09/23/08,<br>01/07/10,<br>03/29/11,<br>10/13/11 | 08/28/07,<br>03/30/09              | \$730                   | \$17,154                 | \$660             | \$18,544             | √                        |
| 28         | 550    | 569        | 06/06/95    |                          |   | 01/16/04           | 06/15/04               | 12/15/04           | 04/07/06                              | 04/19/07,<br>04/14/09,<br>02/19/10,<br>07/06/11,<br>03/02/12,<br>12/20/07,<br>09/25/08,<br>10/07/10              | 05/09/06,<br>08/28/07,<br>03/30/09 | \$730                   | \$14,944                 | \$830             | \$16,504             | √                        |
| 29         | 600    | 606        | 05/08/95    |                          |   | 10/21/03           | 02/23/04               | 08/23/04           | 02/13/06                              | 04/19/07,<br>04/13/09,<br>02/19/10,<br>07/06/11,<br>03/02/12,<br>12/20/07,<br>09/23/08,<br>10/07/10              | 08/28/07,<br>03/30/09              | \$730                   | \$16,236                 | \$660             | \$17,626             | √                        |
| 30         | 600    | 607        | 05/05/95    |                          |   | 09/23/03           | 02/23/04               | 08/23/04           | 09/18/13                              | 04/17/07,<br>04/13/09,<br>02/19/10,<br>07/06/11,<br>03/02/12,<br>12/20/07,<br>09/25/08,<br>10/07/10              | 08/28/07,<br>03/30/09              | \$730                   | \$13,345                 | \$660             | \$14,735             | √                        |
| 31         | 600    | 615        | 06/05/95    |                          |   | 08/15/05           | 02/15/06               | 08/15/06           | 09/18/13                              | 04/17/07,<br>02/19/10,<br>07/06/11,<br>03/02/12,<br>12/20/07,<br>09/25/08,<br>04/13/09,<br>10/07/10              | 08/28/07,<br>03/30/09              | \$730                   | \$15,904                 | \$1,000           | \$17,634             | √                        |



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|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|--|-----------------------|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 32         | 600    | 619        | 06/05/95    |                          |   | 05/13/05           | 11/14/05               | 05/04/06           | 09/18/13                              | 04/17/07,<br>04/13/09,<br>02/19/10,<br>07/06/11,<br>03/02/12,<br>12/20/07,<br>09/25/08,<br>10/07/10              | 08/28/07,<br>03/30/09 | \$730                   | \$15,530                 | \$1,000           | \$17,260             | √                        |
| 33         | 700    | 702        | 06/01/95    |                          |   | 01/13/05           | 07/13/05               | 01/13/06           | 10/28/13                              | 05/30/03,<br>05/11/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11                           | 08/28/07,<br>03/30/09 | \$365                   | \$10,282                 | \$500             | \$11,147             | √                        |
| 34         | 700    | 713        | 06/01/95    |                          |   | 07/15/05           | 01/16/06               | 06/29/06           | 10/24/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/24/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$8,910                  | \$500             | \$9,775              | √                        |
| 35         | 700    | 716        | 06/01/95    |                          |   | 11/05/04           | 05/05/05               | 10/21/05           | 10/24/13                              | 04/24/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>08/18/03,<br>10/24/03,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$8,681                  | \$500             | \$9,546              | √                        |
| 36         | 700    | 719        | 06/01/95    |                          |   | 10/18/04           | 03/18/05               | 09/19/05           | 10/24/13                              | 02/13/03,<br>07/31/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$8,180                  | \$500             | \$9,045              | √                        |
| 37         | 700    | 720        | 06/01/95    |                          |   | 12/30/05           | 06/29/06               | 12/22/06           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/24/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$10,428                 | \$500             | \$11,293             | √                        |

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|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|--|-----------------------|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 38         | 700    | 723        | 06/01/95    |                          |   | 02/22/06           | 08/21/06               | 02/20/07           | 10/28/13                              | 05/11/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11  | 08/28/07              | \$365                   | \$9,459                  | \$500             | \$10,324             | √                        |
| 39         | 700    | 728        | 06/02/95    |                          |   | 11/03/04           | 04/04/05               | 10/04/05           | 10/24/13                              | 02/07/03,<br>07/31/03,<br>05/11/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$8,776                  | \$500             | \$9,641              | √                        |
| 40         | 700    | 730        | 06/02/95    |                          |   | 06/26/06           | 12/26/06               | 06/19/07           | 10/24/13                              | 10/23/02,<br>04/23/03,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11  | 03/30/09              | \$365                   | \$10,328                 | \$500             | \$11,193             | √                        |
| 41         | 700    | 735        | 06/02/95    |                          |   | 06/19/06           | 12/19/06               | 06/11/07           | 10/24/13                              | 02/13/03,<br>07/31/03,<br>06/21/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11              | 03/30/09              | \$365                   | \$10,348                 | \$500             | \$11,213             | √                        |
| 42         | 700    | 736        | 06/02/95    |                          |   | 04/12/05           | 10/12/05               | 03/31/06           | 10/24/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$8,439                  | \$500             | \$9,304              | √                        |
| 43         | 700    | 737        | 06/02/95    |                          |   | 04/11/07           | 10/11/07               | 04/10/08           | 10/28/13                              | 02/13/03,<br>07/31/03,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11  | 08/28/07,<br>03/30/09 | \$365                   | \$10,277                 | \$510             | \$11,152             | √                        |
| 44         | 700    | 739        | 06/02/95    |                          |   | 09/07/04           | 02/07/05               | 07/22/05           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/24/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$8,747                  | \$500             | \$9,612              | √                        |

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|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|--|-----------------------|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 45         | 700    | 740        | 06/02/95    |                          |   | 09/27/04           | 02/28/05               | 08/26/05           | 10/31/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>05/11/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$8,972                  | \$500             | \$9,837              | √                        |
| 46         | 700    | 742        | 06/02/95    |                          |   | 06/07/06           | 12/07/06               | 06/07/07           | 10/24/13                              | 10/24/03,<br>09/25/09,<br>04/19/10,<br>03/17/08,<br>09/19/08,<br>09/23/11  | 03/30/09              | \$365                   | \$9,561                  | \$500             | \$10,426             | √                        |
| 47         | 700    | 744        | 06/02/95    |                          |   | 05/15/06           | 11/15/06               | 05/14/07           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/25/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$8,935                  | \$500             | \$9,800              | √                        |
| 48         | 700    | 748        | 06/05/95    |                          |   | 08/09/04           | 02/09/05               | 07/11/05           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$8,275                  | \$500             | \$9,140              | √                        |
| 49         | 700    | 750        | 06/05/95    |                          |   | 09/30/04           | 03/29/05               | 09/29/05           | 10/24/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>05/11/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$7,759                  | \$500             | \$8,624              | √                        |
| 50         | 700    | 751        | 06/05/95    |                          |   | 03/09/05           | 09/09/05               | 03/08/06           | 10/24/13                              | 02/13/03,<br>07/31/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$11,156                 | \$500             | \$12,021             | √                        |

| Case Index | Family | Docket No. | Filing Date | Prior Appeal Brief Filed | Prior Appeal Concluded,<br>reopen prosecution | Last Action Issued | Notice of Appeal Filed | Appeal Brief Filed | Reopen Prosecution<br>(PTO's version) | PTO's Suspensions  | Mr. Hyatt's Petitions | Application filing fees | Total Excess Claims Fees | Total Appeal Fees | Sum of PTO Fess Paid | "Bulk Filers" Group 2615 |
|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|--|-----------------------|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 51         | 700    | 755        | 06/05/95    |                          |   | 11/05/04           | 04/04/05               | 10/04/05           | 10/28/13                              | 02/13/03,<br>07/31/03,<br>05/11/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$6,562                  | \$500             | \$7,427              | √                        |
| 52         | 700    | 756        | 06/05/95    |                          |   | 01/31/07           | 07/30/07               | 01/30/08           | 10/28/13                              | 05/30/03,<br>12/31/08,<br>09/25/09,<br>04/19/10,<br>09/23/11   | 03/30/09              | \$365                   | \$10,310                 | \$505             | \$11,180             | √                        |
| 53         | 700    | 757        | 06/05/95    |                          |   | 09/07/04           | 02/07/05               | 07/22/05           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/24/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$7,951                  | \$500             | \$8,816              | √                        |
| 54         | 700    | 764        | 06/05/95    |                          |   | 04/21/06           | 10/23/06               | 04/19/07           | 10/24/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>05/03/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 03/30/09              | \$365                   | \$9,028                  | \$500             | \$9,893              | √                        |
| 55         | 700    | 766        | 06/05/95    |                          |   | 09/07/04           | 03/07/05               | 07/22/05           | 10/24/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/25/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$9,017                  | \$500             | \$9,882              | √                        |
| 56         | 700    | 767        | 06/05/95    |                          |   | 07/05/06           | 01/05/07               | 06/29/07           | 10/28/13                              | 02/07/03,<br>07/31/03,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11  | 03/30/09              | \$365                   | \$10,104                 | \$500             | \$10,969             | √                        |

| Case Index | Family | Docket No. | Filing Date | Prior Appeal Brief Filed | Prior Appeal Concluded,<br>reopen prosecution | Last Action Issued | Notice of Appeal Filed | Appeal Brief Filed | Reopen Prosecution<br>(PTO's version) | PTO's Suspensions  | Mr. Hyatt's Petitions | Application filing fees | Total Excess Claims Fees | Total Appeal Fees | Sum of PTO Fess Paid | "Bulk Filers" Group 2615 |
|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|--|-----------------------|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 57         | 700    | 768        | 06/05/95    |                          |   | 10/18/04           | 03/18/05               | 09/19/05           | 10/28/13                              | 02/13/03,<br>07/31/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/25/09,<br>04/19/10,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$9,836                  | \$500             | \$10,701             | √                        |
| 58         | 700    | 769        | 06/05/95    |                          |   | 09/27/04           | 02/28/05               | 08/26/05           | 10/24/13                              | 04/25/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11  | 08/28/07,<br>03/30/09 | \$365                   | \$7,641                  | \$500             | \$8,506              | √                        |
| 59         | 700    | 773        | 06/06/95    |                          |   | 01/04/05           | 07/05/05               | 01/03/06           | 10/31/13                              | 10/24/02,<br>04/23/03,<br>05/11/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$9,246                  | \$500             | \$10,111             | √                        |
| 60         | 700    | 776        | 06/06/95    |                          |   | 03/09/05           | 09/09/05               | 03/08/06           | 10/28/13                              | 10/24/02,<br>04/23/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$10,354                 | \$500             | \$11,219             | √                        |
| 61         | 700    | 777        | 06/06/95    |                          |   | 02/07/05           | 08/08/05               | 02/08/06           | 10/24/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$9,837                  | \$500             | \$10,702             | √                        |
| 62         | 700    | 780        | 06/06/95    |                          |   | 01/10/06           | 07/10/06               | 01/09/07           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>05/11/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 03/30/09              | \$365                   | \$8,662                  | \$500             | \$9,527              | √                        |

| Case Index | Family | Docket No. | Filing Date | Prior Appeal Brief Filed | Prior Appeal Concluded,<br>reopen prosecution | Last Action Issued | Notice of Appeal Filed | Appeal Brief Filed | Reopen Prosecution<br>(PTO's version) | PTO's Suspensions  | Mr. Hyatt's Petitions | Application filing fees | Total Excess Claims Fees | Total Appeal Fees | Sum of PTO Fess Paid | "Bulk Filers" Group 2615 |
|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|--|-----------------------|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 63         | 700    | 781        | 06/06/95    |                          |   | 10/17/05           | 04/17/06               | 10/16/06           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/24/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$9,136                  | \$500             | \$10,001             | √                        |
| 64         | 700    | 782        | 06/06/95    |                          |   | 02/02/05           | 08/02/05               | 02/01/06           | 10/24/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>05/11/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$10,893                 | \$500             | \$11,758             | √                        |
| 65         | 700    | 783        | 06/06/95    |                          |   | 01/11/06           | 07/10/06               | 01/09/07           | 10/24/13                              | 08/01/02,<br>01/31/03,<br>08/18/03,<br>05/11/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$9,045                  | \$500             | \$9,910              | √                        |
| 66         | 700    | 784        | 06/06/95    |                          |   | 04/21/06           | 10/23/06               | 03/23/07           | 10/28/13                              | 02/13/03,<br>07/31/03,<br>05/03/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11              | 03/30/09              | \$365                   | \$9,552                  | \$405             | \$10,322             | √                        |
| 67         | 700    | 786        | 06/06/95    |                          |   | 09/07/05           | 03/06/06               | 09/05/06           | 10/24/13                              | 04/25/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11  | 08/28/07,<br>03/30/09 | \$365                   | \$9,426                  | \$500             | \$10,291             | √                        |
| 68         | 700    | 787        | 06/06/95    | 02/28/01                 | 11/08/01                                      | 09/08/05           | 03/06/06               | 09/05/06           | 10/24/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/25/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$9,201                  | \$805             | \$10,371             | √                        |

| Case Index | Family | Docket No. | Filing Date | Prior Appeal Brief Filed | Prior Appeal Concluded,<br>reopen prosecution | Last Action Issued | Notice of Appeal Filed | Appeal Brief Filed | Reopen Prosecution<br>(PTO's version) | PTO's Suspensions  | Mr. Hyatt's Petitions | Application filing fees | Total Excess Claims Fees | Total Appeal Fees | Sum of PTO Fess Paid | "Bulk Filers" Group 2615 |
|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|--|-----------------------|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 69         | 700    | 789        | 06/06/95    |                          |   | 09/06/05           | 03/06/06               | 09/11/06           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>05/11/07,<br>09/25/09,<br>04/19/10,<br>09/19/07,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$9,167                  | \$500             | \$10,032             | √                        |
| 70         | 700    | 790        | 06/06/95    |                          |   | 02/02/05           | 08/02/05               | 02/01/06           | 10/25/13                              | 10/24/02,<br>04/23/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$8,803                  | \$500             | \$9,668              | √                        |
| 71         | 700    | 791        | 06/06/95    |                          |   | 10/18/04           | 03/18/05               | 09/19/05           | 10/28/13                              | 02/13/03,<br>07/31/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$9,361                  | \$500             | \$10,226             | √                        |
| 72         | 700    | 792        | 06/06/95    |                          |   | 01/04/05           | 07/05/05               | 01/03/06           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$10,066                 | \$500             | \$10,931             | √                        |
| 73         | 700    | 793        | 06/06/95    |                          |   | 08/26/05           | 02/27/06               | 08/28/06           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/24/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09 | \$365                   | \$10,046                 | \$500             | \$10,911             | √                        |
| 74         | 700    | 794        | 06/06/95    |                          |   | 02/02/05           | 08/02/05               | 02/01/06           | 10/24/13                              | 10/24/02,<br>04/23/03,<br>05/11/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11              | 08/28/07,<br>03/30/09 | \$365                   | \$9,984                  | \$500             | \$10,849             | √                        |

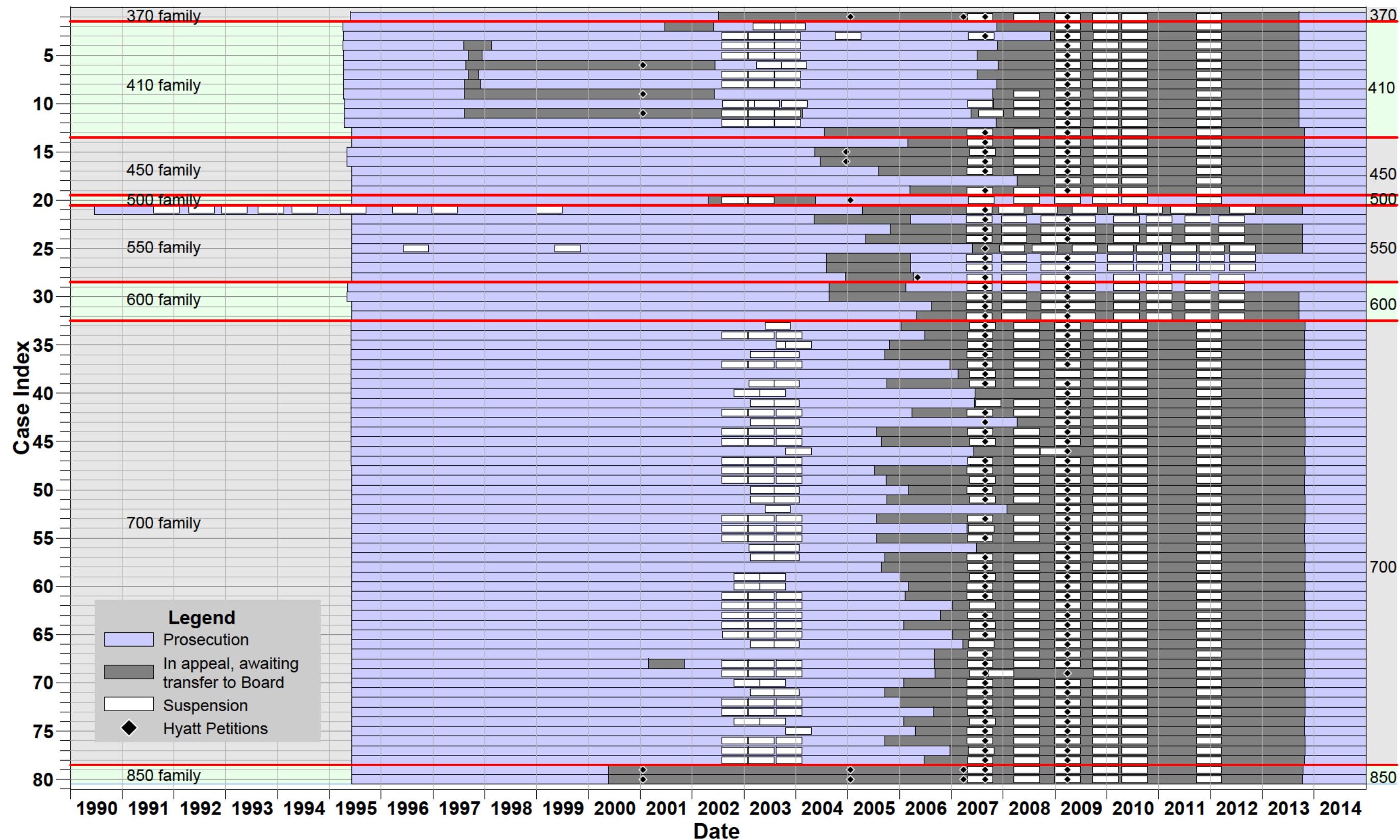


| Case Index | Family | Docket No. | Filing Date | Prior Appeal Brief Filed | Prior Appeal Concluded,<br>reopen prosecution | Last Action Issued | Notice of Appeal Filed | Appeal Brief Filed | Reopen Prosecution<br>(PTO's version) | PTO's Suspensions  | Mr. Hyatt's Petitions  | Application filing fees | Total Excess Claims Fees | Total Appeal Fees | Sum of PTO Fess Paid | "Bulk Filers" Group 2615 |
|------------|--------|------------|-------------|--------------------------|---|--------------------|------------------------|--------------------|---------------------------------------|--|--|-------------------------|--------------------------|-------------------|----------------------|--------------------------|
| 75         | 700    | 795        | 06/06/95    |                          |   | 04/29/05           | 10/30/05               | 04/24/06           | 10/24/13                              | 10/24/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11                           | 08/28/07,<br>03/30/09  | \$365                   | \$9,360                  | \$500             | \$10,225             | √                        |
| 76         | 700    | 796        | 06/06/95    |                          |   | 10/18/04           | 03/18/05               | 09/19/05           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/23/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09  | \$365                   | \$8,793                  | \$500             | \$9,658              | √                        |
| 77         | 700    | 797        | 06/06/95    |                          |   | 12/29/05           | 06/29/06               | 12/22/06           | 10/28/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>05/03/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09  | \$365                   | \$9,758                  | \$500             | \$10,623             | √                        |
| 78         | 700    | 798        | 06/06/95    |                          |   | 07/15/05           | 01/16/06               | 06/26/06           | 10/24/13                              | 07/31/02,<br>01/31/03,<br>08/18/03,<br>04/24/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11 | 08/28/07,<br>03/30/09  | \$365                   | \$8,797                  | \$500             | \$9,662              | √                        |
| 79         | 850    | 856        | 06/06/95    |                          |   | 05/24/99           | 11/24/99               | 05/23/00           | 10/15/13                              | 04/25/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11  | 01/19/01,<br>01/20/05,<br>03/28/07,<br>08/28/07,<br>03/30/09 | \$730                   | \$7,389                  | \$450             | \$8,569              | √                        |
| 80         |        | 865        | 06/06/95    |                          |   | 05/24/99           | 11/24/99               | 05/23/00           | 10/11/13                              | 04/25/07,<br>03/17/08,<br>12/30/08,<br>09/24/09,<br>04/19/10,<br>09/23/11  | 01/19/01,<br>01/20/05,<br>03/28/07,<br>08/28/07,<br>03/30/09 | \$730                   | \$5,791                  | \$450             | \$6,971              | √                        |
| Totals:    |        |            |             |                          |   |                    |                        |                    | \$38,145                              | \$884,188  | \$52,725   | \$975,058               |                          |                   |                      |                          |



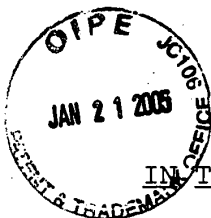
## **Exhibit 11. Timeline of key events in 80 appealed applications**

## Timeline of activities at the PTO in the 80 Hyatt patent applications by case index



## **Exhibit 12. Petition for action on the merit**

2676  
JRW



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )  
GILBERT P. HYATT )  
Serial No. 08/471,070 )  
Docket No. 547 )  
Filed: June 6, 1995 )  
For: AN IMPROVED ARCHITECTURE FOR )  
WRITING DATA INTO A RANDOM )  
ACCESS MEMORY )

PETITION FOR AN ACTION ON THE MERITS  
UNDER 37 CFR 1.181(A)(3)

Hon. Assistant Commissioner  
For Patents  
Washington, D.C. 20231  
Sir:

The Applicant respectfully petitions the Commissioner for his intervention to direct the Examiner to expeditiously provide the Applicant with an Action on the merits.

The PTO requires an expeditious response to amendments (MPEP 708, last paragraph):

All amendments before final rejection should be responded to within two months of receipt.

Further, the PTO requires that the instant application be advanced out of turn for examination for the following reasons (MPEP 708.01, item I):

Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years.

The instant application meets both of these criterion, it has been pending more that 5 years and it has an effective pendency of more than 5 years.

No action has been received in the instant application in more than a year.

The Applicant filed a Request For Status in the instant application dated November 9, 2004 but the Examiner has not responded thereto.

In view of the above, the Commissioner is hereby petitioned to direct the Examiner to immediately prepare an action in the instant application or, alternatively, to pass the instant application to issue.

Because this petition seeks to invoke the Supervisory Authority of the Commissioner under 37 CFR 1.181(a)(3), a petition fee is not required and thus a fee authorization is not needed.

Respectfully submitted,

Dated: January 20, 2005



Gilbert P. Hyatt  
Registration No. 27,647  
P.O. Box 81230  
Las Vegas, NV 89180  
Phone (702) 871-9899

## **Exhibit 13. PTO decision on petition for action**



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

MAIL

FEB 24 2005

DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600

GILBERT P HYATT  
PO BOX 81230  
LAS VEGAS NV 89180

In re Application of: :  
Hyatt :  
Application Serial No.: 08/471,070 :  
Filed: June 6, 1995 :  
For: **MEMORY ARCHITECTURE HAVING A** :  
**MULTIPLE BUFFER OUTPUT ARRANGEMENT** :

DECISION  
ON PETITION

This is a decision on the petition, filed on January 21, 2005 under 37 C.F.R. §1.181 requesting an expedited action on the merits. This petition has been considered a request to affirm that this application is under "special" status in accordance with 37 CFR 1.102.

Petitioner provides support for the request for expedited action with reference to MPEP sections 708 and 708.01. The latter section specifically states that applications pending over 5 years should be considered special. Since this application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is moot.

The examiner will be notified that this application should be considered as "special" and appropriate for expedited action.

The petition is **DISMISSED**.

Kenneth A. Wieder  
Special Program Examiner  
Technology Center 2600  
Communications

## **Exhibit 14. Chronology of petitions and PTO's responses thereto**



| Docket No. | Application Ser. No. | Date of Hyatt petition for action | Date of PTO decision on petition (a) | PTO decision representation   | Petition decision signed by | Dates of subsequent Hyatt petitions for action prior to PTO's subsequent suspension | Subsequent PTO Suspension Date (b) | Period of PTO inaction after promising prompt action and prior to suspension [(b)-(a), years] | Examiner of record as of petition for action | Examiner of record upon suspension |
|------------|----------------------|-----------------------------------|--------------------------------------|---|-----------------------------|---|------------------------------------|---|--|------------------------------------|
| 428        | 08/423,234           | 1/22/01                           | 5/22/01                              | "[I]n view of the lengthy prosecution in the instant application, the file is being forwarded to the examiner for immediate action as appropriate. Any delay caused petitioner in the treatment of the petition and the Appeal Brief is regretted."   | Joseph J. Rolla Jr.         |   | 7/31/02                            | 1.19 yrs  | Anh, Hong Do                                 | Couso, Jose L                      |
| 465        | 08/434,449           | 12/21/04                          | 6/7/05                               | "the application has now been converted into image format" and "the file has been forwarded to the examiner for appropriate action in due course."<br><br>Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is moot. ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action." | Boudreau, Leo               | 3/28/07   | 5/11/07                            | 1.93 yrs  | Nguyen, Phu K                                | Lillis, Eileen Dunn                |
| 467        | 08/435,938           | 12/21/04                          | 6/7/05                               |   | Boudreau, Leo               |   | 4/24/07                            | 1.88 yrs  | Nguyen, Phu K                                | Lillis, Eileen Dunn                |
| 860        | 08/472,031           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Wong, Allen C                                | Wong, Allen C                      |
| 488        | 08/460,092           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 4/25/07                            | 2.16 yrs  | Storm, Donald L                              | Storm, Donald L                    |
| 483        | 08/459,877           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Smits, Talivaldis Ivars                      | Smits, Talivaldis Ivars            |
| 810        | 08/501,981           | 1/21/05                           | 3/2/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.17 yrs  | Awad, Amr A                                  | Razavi, Michael                    |
| 324        | 07/357,570           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07; 8/28/07  | 12/30/08                           | 3.85 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 344        | 07/774,159           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 404        | 08/464,520           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07; 8/28/07  | 3/17/08                            | 3.06 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 476        | 08/463,791           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 513        | 08/479,086           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.18 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 546        | 08/483,016           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 801        | 08/456,270           | 1/21/05                           | 3/3/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.16 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 804        | 08/454,889           | 1/21/05                           | 3/3/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.16 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 805        | 08/455,752           | 1/21/05                           | 3/3/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/15/07                            | 2.20 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |

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|------------|----------------------|-----------------------------------|--------------------------------------|---|-----------------------------|---|------------------------------------|---|--|------------------------------------|
| 811        | 08/501,980           | 1/21/05                           | 3/3/05                               | Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is moot. ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action." | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07;<br>3/30/09   | 7/7/10                             | 5.35 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 812        | 08/501,979           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/3/07                             | 2.16 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 813        | 08/457,941           | 1/21/05                           | 3/2/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.17 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 814        | 08/501,978           | 1/21/05                           | 3/2/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.04 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 817        | 08/456,126           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/31/08                           | 3.85 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 821        | 08/455,769           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.20 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 825        | 08/457,659           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 4/24/07                            | 2.14 yrs  | Brier, Jeffery A                             | Razavi, Michael                    |
| 360        | 08/429,272           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.02 yrs  | Chow, Dennis Doon                            | Razavi, Michael                    |
| 379        | 08/456,130           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 4/25/07                            | 2.16 yrs  | Chow, Dennis Doon                            | Razavi, Michael                    |
| 442        | 08/464,995           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Chow, Dennis Doon                            | Razavi, Michael                    |
| 800        | 08/454,902           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.18 yrs  | Chow, Dennis Doon                            | Razavi, Michael                    |
| 802        | 08/454,901           | 1/21/05                           | 5/18/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 1.96 yrs  | Chow, Dennis Doon                            | Razavi, Michael                    |
| 809        | 08/455,117           | 1/21/05                           | 3/2/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.17 yrs  | Chow, Dennis Doon                            | Razavi, Michael                    |
| 815        | 08/454,877           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.04 yrs  | Chow, Dennis Doon                            | Razavi, Michael                    |
| 816        | 08/454,879           | 1/21/05                           | 3/2/05                               |   | Wieder, Kenneth A.          | 3/29/07   | 4/24/07                            | 2.15 yrs  | Chow, Dennis Doon                            | Razavi, Michael                    |
| 824        | 08/454,884           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/3/07                             | 2.16 yrs  | Chow, Dennis Doon                            | Razavi, Michael                    |
| 828        | 08/455,202           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.18 yrs  | Chow, Dennis Doon                            | Razavi, Michael                    |
| 378        | 08/454,887           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.17 yrs  | Diep, Nhon Thanh                             | Razavi, Michael                    |

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|------------|----------------------|-----------------------------------|--------------------------------------|---|-----------------------------|---|------------------------------------|---|--|------------------------------------|
| 365        | 08/436,552           | 1/21/05                           | 3/7/05                               | Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is moot. ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action." | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.18 yrs  | Dinh, P                                      | Razavi, Michael                    |
| 361        | 08/428,737           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.17 yrs  | Dinh, Son T                                  | Razavi, Michael                    |
| 470        | 08/437,527           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Dorvil, Richemond                            | Razavi, Michael                    |
| 363        | 08/433,307           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.03 yrs  | Fears, Terrell W                             | Razavi, Michael                    |
| 381        | 08/455,309           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/30/08                           | 3.85 yrs  | Flynn, Nathan J                              | Razavi, Michael                    |
| 384        | 08/454,875           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Flynn, Nathan J                              | Razavi, Michael                    |
| 356        | 08/599,450           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.17 yrs  | Jankus, Almis R                              | Razavi, Michael                    |
| 450        | 08/417,530           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Jankus, Almis R                              | Razavi, Michael                    |
| 452        | 08/419,590           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Jankus, Almis R                              | Razavi, Michael                    |
| 460        | 08/432,384           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Jankus, Almis R                              | Razavi, Michael                    |
| 464        | 08/435,513           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Jankus, Almis R                              | Razavi, Michael                    |
| 474        | 08/460,800           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 4/25/07                            | 2.18 yrs  | Jankus, Almis R                              | Razavi, Michael                    |
| 475        | 08/460,768           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Jankus, Almis R                              | Razavi, Michael                    |
| 385        | 08/445,458           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 4/24/07                            | 2.13 yrs  | Kianni, Kaveh C                              | Razavi, Michael                    |
| 850        | 08/479,097           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 4/25/07                            | 2.14 yrs  | Knepper, David D                             | Razavi, Michael                    |
| 858        | 08/470,666           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/31/08                           | 3.83 yrs  | Knepper, David D                             | Razavi, Michael                    |
| 863        | 08/471,932           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 4/25/07                            | 2.16 yrs  | Knepper, David D                             | Razavi, Michael                    |
| 489        | 08/461,572           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Laneau, Ronald                               | Razavi, Michael                    |
| 864        | 08/470,665           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Laneau, Ronald                               | Razavi, Michael                    |

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|------------|----------------------|-----------------------------------|--------------------------------------|---|-----------------------------|---|------------------------------------|---|--|------------------------------------|
| 493        | 08/464,980           | 1/21/05                           | 2/24/05                              | Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is moot. ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action." | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/30/08                           | 3.85 yrs  | Lao, Lun Yi                                  | Razavi, Michael                    |
| 455        | 08/429,391           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Lao, Lun Yi                                  | Razavi, Michael                    |
| 469        | 08/436,853           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Lao, Lun Yi                                  | Razavi, Michael                    |
| 471        | 08/438,598           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Lao, Lun Yi                                  | Razavi, Michael                    |
| 803        | 08/454,896           | 1/21/05                           | 3/2/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Lao, Lun Yi                                  | Razavi, Michael                    |
| 808        | 08/455,750           | 1/21/05                           | 2/28/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/31/08                           | 3.84 yrs  | Lao, Lun Yi                                  | Razavi, Michael                    |
| 819        | 08/455,435           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/3/07                             | 2.21 yrs  | Lao, Lun Yi                                  | Razavi, Michael                    |
| 823        | 08/454,780           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Lao, Lun Yi                                  | Razavi, Michael                    |
| 826        | 08/455,648           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.16 yrs  | Lao, Lun Yi                                  | Razavi, Michael                    |
| 383        | 08/454,878           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Le, Vu                                       | Razavi, Michael                    |
| 372        | 08/455,297           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.18 yrs  | Lee, Y Young                                 | Razavi, Michael                    |
| 380        | 08/455,320           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/10/07   | 3/17/08                            | 3.06 yrs  | Lee, Y Young                                 | Razavi, Michael                    |
| 405        | 08/464,032           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/10/07   | 3/17/08                            | 3.06 yrs  | Legree, Tracy Michelle                       | Razavi, Michael                    |
| 613        | 08/465,482           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 655        | 08/457,609           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.17 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 666        | 08/458,102           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 675        | 08/457,717           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 485        | 08/459,508           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 497        | 08/466,994           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.17 yrs  | Liang, Regina                                | Razavi, Michael                    |



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|------------|----------------------|-----------------------------------|--------------------------------------|---|-----------------------------|---|------------------------------------|---|--|------------------------------------|
| 654        | 08/640,727           | 1/21/05                           | 2/24/05                              | Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is moot. ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action." | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/31/08                           | 3.85 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 654        | 08/640,727           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/31/08                           | 3.83 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 656        | 08/456,399           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 658        | 08/457,963           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 660        | 08/456,332           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 661        | 08/456,327           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.18 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 662        | 08/456,338           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 668        | 08/459,090           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 669        | 08/457,195           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.06 yrs  | Liang, Regina                                | Razavi, Michael                    |
| 472        | 08/460,550           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Mengistu, Amare                              | Razavi, Michael                    |
| 657        | 08/457,361           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.06 yrs  | Mengistu, Amare                              | Razavi, Michael                    |
| 806        | 08/455,164           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          |   | 5/2/07                             | 2.16 yrs  | Mengistu, Amare                              | Razavi, Michael                    |
| 807        | 08/455,779           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.16 yrs  | Mengistu, Amare                              | Razavi, Michael                    |
| 818        | 08/455,738           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.18 yrs  | Mengistu, Amare                              | Razavi, Michael                    |
| 822        | 08/455,505           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/3/07                             | 2.16 yrs  | Mengistu, Amare                              | Razavi, Michael                    |
| 407        | 08/465,923           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Nguyen, Chanh Duy                            | Razavi, Michael                    |
| 670        | 08/457,344           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/31/08                           | 3.85 yrs  | Nguyen, Chanh Duy                            | Razavi, Michael                    |
| 671        | 08/457,355           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/31/08                           | 3.85 yrs  | Nguyen, Chanh Duy                            | Razavi, Michael                    |
| 403        | 08/465,152           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.18 yrs  | Nguyen, Chanh Duy                            | Razavi, Michael                    |

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|------------|----------------------|-----------------------------------|--------------------------------------|---|-----------------------------|---|------------------------------------|---|--|------------------------------------|
| 650        | 08/439,032           | 1/21/05                           | 3/4/05                               | Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is moot. ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action." | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Nguyen, Chanh Duy                            | Razavi, Michael                    |
| 659        | 08/458,144           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Nguyen, Chanh Duy                            | Razavi, Michael                    |
| 663        | 08/456,397           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Nguyen, Chanh Duy                            | Razavi, Michael                    |
| 667        | 08/457,446           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07; 8/28/07  | 12/31/08                           | 3.85 yrs  | Nguyen, Chanh Duy                            | Razavi, Michael                    |
| 672        | 08/471,810           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07; 8/28/07  | 12/31/08                           | 3.85 yrs  | Nguyen, Chanh Duy                            | Razavi, Michael                    |
| 676        | 08/457,210           | 1/21/05                           | 3/2/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Nguyen, Chanh Duy                            | Razavi, Michael                    |
| 479        | 08/459,244           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Nguyen, Phu K                                | Razavi, Michael                    |
| 369        | 08/472,025           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.17 yrs  | Nguyen, V                                    | Razavi, Michael                    |
| 364        | 08/435,502           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07; 8/28/07  | 5/9/07                             | 2.17 yrs  | Rao, Anand Shashikant                        | Razavi, Michael                    |
| 371        | 08/455,924           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Rao, Anand Shashikant                        | Razavi, Michael                    |
| 386        | 08/454,810           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07; 8/10/07  | 3/17/08                            | 3.04 yrs  | Rao, Anand Shashikant                        | Razavi, Michael                    |
| 389        | 08/455,310           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Rao, Anand Shashikant                        | Razavi, Michael                    |
| 454        | 08/420,942           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Shankar, Vuay                                | Razavi, Michael                    |
| 463        | 08/431,638           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Shankar, Vuay                                | Razavi, Michael                    |
| 466        | 08/438,012           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Shankar, Vuay                                | Razavi, Michael                    |
| 496        | 08/464,996           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Shankar, Vuay                                | Razavi, Michael                    |
| 857        | 08/457,086           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 4/24/07                            | 2.16 yrs  | Tran, Thung V                                | Razavi, Michael                    |
| 500        | 08/435,894           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07; 8/28/07  | 3/17/08                            | 3.04 yrs  | Tung, Kee M                                  | Razavi, Michael                    |
| 501        | 08/432,478           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07; 8/28/07  | 3/17/08                            | 3.02 yrs  | Tung, Kee M                                  | Razavi, Michael                    |

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|------------|----------------------|-----------------------------------|--------------------------------------|---|-----------------------------|---|------------------------------------|---|--|------------------------------------|
| 502        | 08/435,901           | 1/21/05                           | 3/4/05                               | Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is moot. ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action." | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.04 yrs  | Tung, Kee M                                  | Razavi, Michael                    |
| 503        | 08/435,033           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.06 yrs  | Tung, Kee M                                  | Razavi, Michael                    |
| 504        | 08/470,079           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.16 yrs  | Tung, Kee M                                  | Razavi, Michael                    |
| 507        | 08/471,707           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Tung, Kee M                                  | Razavi, Michael                    |
| 508        | 08/471,138           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Tung, Kee M                                  | Razavi, Michael                    |
| 520        | 08/470,082           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Tung, Kee M                                  | Razavi, Michael                    |
| 530        | 08/471,708           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Tung, Kee M                                  | Razavi, Michael                    |
| 538        | 08/466,953           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Tung, Kee M                                  | Razavi, Michael                    |
| 543        | 08/466,164           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Tung, Kee M                                  | Razavi, Michael                    |
| 547        | 08/471,070           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.18 yrs  | Tung, Kee M                                  | Razavi, Michael                    |
| 326        | 07/419,911           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 4/24/07                            | 2.13 yrs  | Wil, X                                       | Razavi, Michael                    |
| 391        | 08/454,886           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Wong, Allen C                                | Razavi, Michael                    |
| 453        | 08/419,681           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |
| 610        | 08/465,627           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.17 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |
| 652        | 08/457,369           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.17 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |
| 653        | 08/640,726           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/31/08                           | 3.85 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |
| 664        | 08/458,003           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |
| 674        | 08/457,716           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |
| 677        | 08/458,579           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |

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|------------|----------------------|-----------------------------------|--------------------------------------|---|-----------------------------|---|------------------------------------|---|--|------------------------------------|
| 486        | 08/458,548           | 1/21/05                           | 2/25/05                              | Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is moot. ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action." | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |
| 651        | 08/439,033           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.17 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |
| 665        | 08/457,663           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |
| 673        | 08/456,599           | 1/21/05                           | 3/2/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.04 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |
| 678        | 08/457,939           | 1/21/05                           | 3/2/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 4/24/07                            | 2.15 yrs  | Wu, Xiao Min                                 | Razavi, Michael                    |
| 505        | 08/470,888           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.17 yrs  | Psitos, Aristotelis M                        | Psitos, Aristotelis M              |
| 535        | 08/470,899           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.18 yrs  | Psitos, Aristotelis M                        | Psitos, Aristotelis M              |
| 852        | 08/483,011           | 1/21/05                           | 3/3/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Opsasnick, Michael N                         | Opsasnick, Michael N               |
| 859        | 08/470,856           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.04 yrs  | Opsasnick, Michael N                         | Opsasnick, Michael N               |
| 541        | 08/470,177           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.17 yrs  | Neyzari, Ali                                 | Neyzari, Ali                       |
| 548        | 08/470,882           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/31/08                           | 3.82 yrs  | Neyzari, Ali                                 | Neyzari, Ali                       |
| 506        | 08/471,714           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Miller, Brian E                              | Miller, Brian E                    |
| 534        | 08/471,845           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/15/07                            | 2.22 yrs  | Miller, Brian E                              | Miller, Brian E                    |
| 492        | 08/469,019           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Maung, Nay Aung                              | Maung, Nay Aung                    |
| 761        | 08/463,111           | 1/21/05                           | 2/28/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 4/24/07                            | 2.15 yrs  | Del Rosso, Gerard D                          | Lillis, Eileen Dunn                |
| 752        | 08/463,583           | 1/21/05                           | 3/2/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Mancuso, Joseph                              | Lillis, Eileen Dunn                |
| 754        | 08/465,198           | 1/21/05                           | 2/28/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.20 yrs  | Mancuso, Joseph                              | Lillis, Eileen Dunn                |
| 762        | 08/464,497           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Mengistu, Amare                              | Lillis, Eileen Dunn                |
| 765        | 08/463,821           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Nguyen, Chanh Duy                            | Lillis, Eileen Dunn                |
| 775        | 08/469,263           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Nguyen, Chanh Duy                            | Lillis, Eileen Dunn                |



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|------------|----------------------|-----------------------------------|--------------------------------------|---|-----------------------------|---|------------------------------------|---|--|------------------------------------|
| 799        | 08/471,252           | 1/21/05                           | 3/4/05                               | Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is moot. ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action." | Wieder, Kenneth A.          | 3/28/07   | 4/24/07                            | 2.14 yrs  | Wu, Xiao Min                                 | Lillis, Eileen Dunn                |
| 487        | 08/458,197           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.06 yrs  | Lerner, Martin                               | Lerner, Martin                     |
| 480        | 08/459,220           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/9/07                             | 2.20 yrs  | Lerner, Martin                               | Lerner, Martin                     |
| 390        | 08/456,129           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.18 yrs  | Lee, Y Young                                 | Lee, Y Young                       |
| 514        | 08/471,704           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Letscher, George J                           | Korzuch, William R                 |
| 853        | 08/470,859           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Knepper, David D                             | Knepper, David D                   |
| 856        | 08/472,041           | 1/21/05                           | 3/3/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 4/25/07                            | 2.15 yrs  | Knepper, David D                             | Knepper, David D                   |
| 862        | 08/469,528           | 1/21/05                           | 3/3/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Knepper, David D                             | Knepper, David D                   |
| 867        | 08/471,062           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Knepper, David D                             | Knepper, David D                   |
| 855        | 08/486,151           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Opsasnick, Michael N                         | Knepper, David D                   |
| 861        | 08/470,898           | 1/21/05                           | 3/3/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.19 yrs  | Opsasnick, Michael N                         | Knepper, David D                   |
| 865        | 08/472,032           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 4/25/07                            | 2.16 yrs  | Opsasnick, Michael N                         | Knepper, David D                   |
| 868        | 08/471,434           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Opsasnick, Michael N                         | Knepper, David D                   |
| 367        | 08/471,214           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.02 yrs  | Fears, Terrell W                             | Kelley, Christopher S              |
| 315        | 07/128,659           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/29/08                           | 3.82 yrs  | Flynn, Nathan J                              | Kelley, Christopher S              |
| 866        | 08/471,795           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Le, Vu                                       | Kelley, Christopher S              |
| 382        | 08/456,138           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.04 yrs  | Miller, J                                    | Kelley, Christopher S              |
| 482        | 08/458,582           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Nguyen, Chanh Duy                            | Kazavi, Michael                    |
| 519        | 08/470,084           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/31/08                           | 3.82 yrs  | Huber, Paul W                                | Huber, Paul W                      |

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|------------|----------------------|-----------------------------------|--------------------------------------|---|-----------------------------|---|------------------------------------|---|--|------------------------------------|
| 529        | 08/470,080           | 1/21/05                           | 3/9/05                               | Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is moot. ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action." | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/31/08                           | 3.82 yrs  | Huber, Paul W                                | Huber, Paul W                      |
| 539        | 08/469,939           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.21 yrs  | Huber, Paul W                                | Huber, Paul W                      |
| 521        | 08/469,573           | 1/21/05                           | 3/4/05                               |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/30/08                           | 3.83 yrs  | Hindi, Nabil Z                               | Hindi, Nabil Z                     |
| 409        | 08/465,176           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Legree, Tracy Michelle                       | Field, Joseph H                    |
| 401        | 08/469,002           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.06 yrs  | Maung, Nay Aung                              | Field, Joseph H                    |
| 509        | 08/471,598           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 4/25/07                            | 2.13 yrs  | Evans, Jefferson A                           | Evans, Jefferson A                 |
| 512        | 08/471,700           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 4/25/07                            | 2.13 yrs  | Evans, Jefferson A                           | Evans, Jefferson A                 |
| 402        | 08/464,246           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 12/30/08                           | 3.85 yrs  | Eng, George                                  | Eng, George                        |
| 366        | 08/469,061           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Edun, Mohammad N                             | Edun, Mohammad N                   |
| 523        | 08/469,565           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Edun, Mohammad N                             | Edun, Mohammad N                   |
| 542        | 08/469,098           | 1/21/05                           | 3/9/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Edun, Mohammad N                             | Edun, Mohammad N                   |
| 536        | 08/469,058           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.18 yrs  | Dinh, Tan X                                  | Dinh, Tan X                        |
| 522        | 08/471,428           | 1/21/05                           | 2/24/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.18 yrs  | Davis, David Donald                          | Davis, David Donald                |
| 528        | 08/471,543           | 1/21/05                           | 3/7/05                               |   | Wieder, Kenneth A.          | 3/28/07   | 5/2/07                             | 2.15 yrs  | Davis, David Donald                          | Davis, David Donald                |
| 440        | 08/460,966           | 1/21/05                           | 2/17/05                              |   | Wieder, Kenneth A.          | 3/28/07   | 5/11/07                            | 2.23 yrs  | Holder, Regina Neal                          | Davidson, Dan                      |
| 400        | 08/465,203           | 1/21/05                           | 2/25/05                              |   | Wieder, Kenneth A.          | 3/28/07;<br>8/28/07   | 3/17/08                            | 3.06 yrs  | Saras, Steven                                | Appiah, Charles Nana               |
| Average:   |                      |                                   |                                      |   |                             |   |                                    | 2.46 yrs  |  |                                    |

## **Exhibit 15. Petition for examiner's answer in Docket No. 428**

26X

# 26

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                              |   |                       |
|------------------------------|---|-----------------------|
| In re Application of         | ) |                       |
| GILBERT P. HYATT             | ) | Group Art Unit 2724   |
| Serial No. 08/423,234        | ) | Examiner: Anh Hong Do |
| Docket No. 428               | ) |                       |
| Filed: April 17, 1995        | ) |                       |
| For: IMAGE PROCESSING SYSTEM | ) |                       |
| HAVING A SAMPLED FILTER      | ) |                       |

PETITION FOR AN EXAMINER'S ANSWER  
UNDER 37 CFR 1.181(A)(3)

Hon. Assistant Commissioner  
For Patents  
Washington, D.C. 20231  
Sir:

**RECEIVED**

**JAN 22 2001**

**DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600**

The Applicant respectfully petitions the Commissioner for his intervention to direct the Examiner to expeditiously provide the Applicant with an Examiner's Answer in response to the Applicant's Appeal Brief.

Examination in the instant application proceeded to the taking of an appeal and the timely filing of an Appeal Brief on August 11, 1997. An Examiner's Answer was due within two months.

The examiner should furnish the appellant with a written statement in answer to the appellant's brief within 2 months after the receipt of the brief by the examiner.

See MPEP 1208 (emphasis added). The importance of an examiner expeditiously furnishing an Examiner's Answer is even more compellingly illustrated by the fact that an Examiner's Answer takes "precedence" and "priority" over special applications.

Certain procedures by the examiners [examiner's answers] take precedence over actions even on special cases....

Applications in which practice requires that the examiner act within a set period, such as 2 months after

appellants brief to furnish the examiner's answers (MPEP § 1208) necessarily takes priority over special cases without specific time limits.

See MPEP 708.01 (emphasis added). Nevertheless, it has been over forty-one (41) months and the Applicant has not received an Examiner's Answer. This is a blatant violation of the plain requirements of the PTO and of the right's of the Applicant.

Even the United States Congress discourages delays by the PTO. The United States Congress, in the term extension provision of the American Inventors Protection Act of 1999, sent the clear message that undue delay by the PTO is unacceptable.


In view of the above, the Commissioner is hereby petitioned to direct the Examiner to immediately prepare an Examiner's Answer in the instant application or, alternatively, to pass the instant application to issue.

Because this petition seeks to invoke the Supervisory Authority of the Commissioner, a petition fee is not required.

Please charge any fees associated with the papers transmitted herewith to Deposit Account No. 08-3626, including any fees that may be required but are not set forth above.

Respectfully submitted,

Dated: January 19, 2001

  
\_\_\_\_\_  
Gilbert P. Hyatt  
Registration No. 27,647  
P.O. Box 81230  
Las Vegas, NV 89180  
Phone (702) 871-9899

## **Exhibit 16. PTO decision on petition in Docket No. 428**



Paper No. 27

MAIL

MAY 22 2001

DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600

Gilbert P. Hyatt  
P.O. Box 81230  
Las Vegas, NV 89180

In re Application of  
Gilbert P. Hyatt  
Application No.: 08/423,234  
Filed: 4/17/95

DECISION ON PETITION

This is a decision on the petition for an Examiner's Answer Under 37 CFR 1.181 (A)(3) filed January 22, 2001.

Petitioner urges that the Commissioner exercise his supervisor authority to direct the examiner to immediately prepare an Examiner's Answer in the instant application or, alternatively, to pass the application to issue.

37 CFR 1.193(a)(1) states in part:

"The primary examiner *may*, within such time as may be directed by the Commissioner, furnish a written statement in answer to appellant's brief..." (Emphasis added.)

MPEP 1208 States in part:

"The examiner *should* furnish the appellant with a written statement in answer to the appellant's brief within two months after the receipt of the brief by the examiner." (Emphasis added.)

There is no requirement under statute or rule compelling the examiner to issue an Examiner's Answer in response to an Appeal Brief. Alternatively, the examiner may dismiss the appeal and process the application for issuance or reopen prosecution if other more appropriate grounds of rejection/objection are contemplated. See MPEP 1208.02.

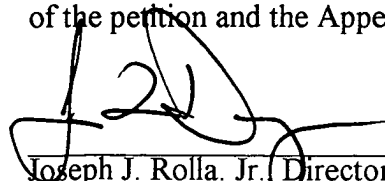
Therefore, the petition is without merit.

The petition is **DENIED**.

*Decision on Petition*

*Page 2*

However, in view of the lengthy prosecution in the instant application, the file is being forwarded to the examiner for immediate action as appropriate. Any delay caused petitioner in the treatment of the petition and the Appeal Brief is regretted.

 for Joe Rolla  
\_\_\_\_\_  
Joseph J. Rolla, Jr. Director  
Technology Center 2600  
Communications



## **Exhibit 17. Chronology of selected petitions in appealed cases and PTO's responses thereto**

| Case Index | Family | Docket No. | Application Ser. No. | Application filing date | Appeal Brief filing date | Mr. Hyatt's relevant petition date | Decision on Petition and PTO representation Date | PTO Representation   | Subsequent Suspension Date | Period A: Time Between Appeal Brief and Suspension (Years) | Period B: Time Between PTO Representation and Suspension (Years) | Examiner Name; Art Unit   | Number of patents issued by this Examiner (Note 1) |   |   |
|------------|--------|------------|----------------------|-------------------------|--------------------------|------------------------------------|--|--|----------------------------|--|--|---------------------------|--|---|---|
|            |        |            |                      |                         |                          |                                    |  |  |                            |  |  |                           | Total in Period A                                  | In Period A with app. date post Hyatt's app. date | In Period B with app. date post Hyatt's app. date |
| 1          | 370    | 379        | 08/456,130           | 05/31/95                | 07/05/02                 | 01/21/05                           | 02/25/05   | Petition dismissed. Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is <i>moot</i> . ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action."  | 4/25/07                    | 4.8 yrs  | 2.2 yrs  | Dennis D. Chow; AU2675    | 295  | 291   | 129   |
| 11         | 410    | 428        | 08/423,234           | 04/17/95                | 08/11/97                 | 01/19/01                           | 05/22/01   | Petition Denied. "However, in view of the lengthy prosecution in the instant application, the file is being forwarded to the examiner for immediate action as appropriate. Any delay caused petitioner in the treatment of the petition and the Appeal Brief is regretted."  | 7/31/02                    | 5.0 yrs  | 1.2 yrs  | Anh H. Do; AU2606         | 241  | 211   | 55  |
| 15         | 450    | 465        | 08/434,449           | 05/03/95                | 05/13/04                 | 12/21/04                           | 06/07/05   | SPE stated that "the application file was located in IFW processing and that an Answer would be generated immediately upon its availability." 08/434,449 at A1991; "[T]he application has now been converted into image format" and petition "is <i>Dismissed as Moot</i> inasmuch as the file has been forwarded to the examiner for appropriate action in due course." | 5/11/07                    | 3.0 yrs  | 1.9 yrs  | Phu Nguyen; AU2671        | 227  | 227   | 161   |
| 16         |        | 467        | 08/435,938           | 05/05/95                | 06/24/04                 | 12/21/04                           | 06/07/05   | SPE stated that "the application file was located in IFW processing and that an Answer would be generated immediately upon its availability." 08/435,938 at A1697; "[T]he application has now been converted into image format" and petition "is <i>Dismissed as Moot</i> inasmuch as the file has been forwarded to the examiner for appropriate action in due course." | 4/24/07                    | 2.8 yrs  | 1.9 yrs  | Phu Nguyen; AU2671        | 215  | 215   | 156   |
| 79         | 850    | 856        | 08/472,041           | 06/06/95                | 05/23/00                 | 01/20/05                           | 03/03/05   | Petition dismissed. Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is <i>moot</i> . ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action."  | 4/25/07                    | 6.9 yrs  | 2.1 yrs  | David D. Knepper; AU2741  | 268  | 264   | 98  |
| 80         |        | 865        | 08/472,032           | 06/06/95                | 05/23/00                 | 01/20/05                           | 02/24/05   | Petition dismissed. Because the "application by virtue of its prolonged pendency is already special in accordance with PTO policy, Petitioner's request is <i>moot</i> . ... The examiner will be notified that this application should be considered as 'special' and appropriate for expedited action."  | 4/25/07                    | 6.9 yrs  | 2.2 yrs  | Michael Opsasnick; AU2741 | 285  | 282   | 98  |

1. Public record on PTO website at <http://patft.uspto.gov/netahtml/PTO/search-adv.htm>, with specific parameters entered. An example of query entry yielding the 291 issued patents in Period A for the examiner listed in first row is (EXP/"Chow; Dennis" OR EXA/"Chow; Dennis") AND ISD/Jul-5-2002->Apr-25-2007 AND APD/May-31-1995->Apr-25-2007

## **Exhibit 18. PTO “Recycling” applications**



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|                                |   |                        |
|--------------------------------|---|------------------------|
| In re Application of           | ) |                        |
|                                | ) |                        |
| GILBERT P. HYATT               | ) | Group Art Unit: 3621   |
|                                | ) |                        |
| Serial No.: 07/289,355         | ) | Examiner: Brian Werner |
|                                | ) |                        |
| Filed: December 22, 1988       | ) |                        |
|                                | ) |                        |
| Docket No.: 321                | ) |                        |
|                                | ) |                        |
| For: IMPROVED IMAGE PROCESSING | ) |                        |
| ARCHITECTURE                   | ) |                        |
|                                | ) |                        |

**MEETING CONFERENCE RECORD**

Hon. Commissioner For Patents  
P.O. Box 1450, Alexandria, VA 22313-1450

The Applicant had a conference on November 16, 2006 with the Director of T.C. 2600, Andrew Christensen, who had responsibility for some of his applications. The Applicant described the issue of the PTO "recycling" of his patent applications that have rejections reversed by the Board and particularly described the history of two patent applications that were in T.C. 2600; including the instant application. The Applicant pointed out "the scenario of applications going round and round from the examining groups to the Board and then back to the examining groups and then back to the Board." The Director confirmed that this was the policy that the PTO was following.

CERTIFICATION OF MAILING: I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 11, 2007.

Dated: October 11, 2007

Respectfully submitted,

A handwritten signature in black ink, reading "Gilbert P. Hyatt", written over a horizontal line.

Gilbert P. Hyatt  
Registration No. 27,647  
P.O. Box 81230  
Las Vegas, NV 89180  
Phone (702) 871-9899

## **Exhibit 19. The 40-year-long saga of Case Docket No.146**

DEC 19 2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of )  
 )  
 GILBERT P. HYATT )  
 )  
 Serial No.: 05/860,277 )  
 )  
 Appeal No.: 2012-011643 )  
 )  
 Filed: December 13, 1977 )  
 )  
 Docket No.: 146 )  
 )  
 For: HIGH INTENSITY ILLUMINATION )  
 CONTROL SYSTEM )

**CONFIRMATION OF ORAL HEARING AND**  
**PETITION FOR DECISIONS ON THREE PENDING PETITIONS**  
**PRIOR TO THE ORAL HEARING**

Hon. Commissioner For Patents  
 P.O. Box 1450, Alexandria, VA 22313-1450  
ATTENTION: Board of Patent Appeals and Interferences

May It Please The Honorable Board:

**Introduction.**

The Oral Hearing in the above application is currently set for February 4, 2013. The appellant provisionally confirms this date of oral hearing but respectfully petitions for decisions on three pending petitions<sup>1</sup> prior to the oral hearing. A copy of the Notice of Hearing is transmitted herewith. Furthermore, the appellant requests extra time for the hearing -- the

<sup>1</sup> The three outstanding petitions include (1) the Petition to Reopen Prosecution dated December 12, 1990, (2) the Supplemental Petition to Expunge dated December 17, 1990, and (3) the Petition to enter an amendment dated October 6, 1994.

appellant requests 45 minutes for the hearing. Good and sufficient reasons for granting of the petition is set forth below.

First, the appellant provisionally confirms the February 4, 2013, date of oral hearing. The appellant confirms his request to have an oral hearing in this appeal. This provisional confirmation is related to the instant petition for decisions on three pending petitions prior to the oral hearing as set forth below.

Second, the appellant hereby petitions the Board to obtain decisions on the three pending petitions prior to holding the oral hearing. In particular, the appellant desires to have a hearing in the instant case but the appellant submits that the instant appeal is not yet ready for oral hearing because three important petitions<sup>2</sup> have not yet been decided.

Third, the hearing on this appeal is premature

1. because the appellant had a right to amend the claims in response to explicit new grounds of rejection in the Examiner's Answer,
2. because the examiner did not consider the amendment on the merits,
3. because a petition directed to this amendment has not yet been decided, and
4. because two other petitions in this case have not yet been decided.<sup>3</sup>

Fourth, the examiner confirmed that, "if a responding paper was filed, the case would have to be remanded by the Board to the Examiner for consideration of the responding paper."<sup>4</sup> This action is respectfully requested for the three undecided petitions.<sup>5</sup>

---

<sup>2</sup> The three outstanding petitions include (1) the Petition to Reopen Prosecution dated December 12, 1990, (2) the Supplemental Petition to Expunge dated December 17, 1990, and (3) the Petition to enter an amendment dated October 6, 1994.

<sup>3</sup> The three outstanding petitions include (1) the Petition to Reopen Prosecution dated December 12, 1990, (2) the Supplemental Petition to Expunge dated December 17, 1990, and (3) the Petition to enter an amendment dated October 6, 1994.

<sup>4</sup> Examiner Interview Record dated November 20, 1994.



**The Chronology In-Part In The Appealed Patent Application.**

In order to assist the Board in understanding the tortured record created by the PTO in the instant appeal, a chronology is provided in tabular form in this section and a text description thereof is provided in the section below entitled "The Tortured Record In The Appealed Patent Application".

| DATE OF EVENT      | MEMORIALIZED IN DOCUMENT  | DESCRIPTION OF DOCUMENT OR EVENT   |
|--------------------|---|--|
| August 1, 1989     | August 1, 1989<br>Notice of appeal  | Notice of appeal   |
| December 4, 1989   | December 4, 1989<br>Appeal Brief  | Appeal Brief   |
| March 12, 1990     | April 3, 1990<br>Telephone<br>Conference Record                           | The examiner informed the appellant that he was trying to locate the file.   |
| April 3, 1990      | April 3, 1990<br>Telephone<br>Conference Record                           | The examiner informed the appellant that the file had been lost and that an official search for the file had been initiated. The examiner said that this is the second time that this file had been lost and that it took six years to find the file the first time. |
| April 3, 1990      | April 3, 1990<br>Request for Status                                       | Request for Status.  |
| August 10, 1990    | August 10, 1990<br>Examiner's Answer                                      | Examiner's Answer having express new grounds of rejection.   |
| August 16, 1990    | August 16, 1990<br>Request  | The appellant requested the examiner to reopen prosecution because of the new grounds of rejection.  |
| September 10, 1990 | September 10, 1990<br>Response to the<br>request to reopen<br>prosecution | The examiner denied the appellant's request to reopen prosecution  |
| September 24, 1990 | September 24, 1990<br>Petition to Reopen<br>Prosecution                   | The appellant petitioned to reopen prosecution because of the new grounds of rejection.  |

<sup>5</sup> The three outstanding petitions include (1) the Petition to Reopen Prosecution dated December 12, 1990, (2) the Supplemental Petition to Expunge dated December 17, 1990, and (3) the Petition to enter an amendment dated October 6, 1994.

|                    |   |  |
|--------------------|---|--|
| September 24, 1990 | September 24, 1990<br>Petition to Expunge                       | The appellant petitioned to expunge the record because of improper remarks made by the examiner.   |
| October 23, 1990   | October 23, 1990<br>Request for Relief                          | The appellant pointed out the PTO delays and the expense of extensions of time and requested relieve relative there to.  |
| October 23, 1990   | October 23, 1990<br>Telephone Conference Record                 | The PTO lost the Examiner's Answer and the supervisor requested that the applicant provide a copy of it.   |
| October 24, 1990   | PTO Request<br>October 24, 1990                                 | The PTO lost the Examiner's Answer and the supervisor requested that the applicant provide a copy of it.   |
| November 27, 1990  | November 27, 1990<br>Decision on Petition to Reopen Prosecution | The director denied the Petition to Reopen Prosecution, but the Director stated that "any amendment or argument in response to the new grounds of rejection would be considered upon filing a Reply Brief."  |
| November 27, 1990  | November 27, 1990<br>Decision on Petition to Expunge            | The Director elaborated on the denial and dismissed the Petition To Expunge and gave the appellant leave to submit additional evidence because "[t]here appears to be merit in applicant [sic] arguments that the examiner's statements were in error."                            |
| December 12, 1990  | December 12, 1990<br>Petition to the Commissioner               | The appellant petitioned to invoke the supervisory authority of the Commissioner regarding the decision on Petition to Reopen Prosecution. <b><u>The PTO has not yet decided this petition.</u></b>  |
| December 17, 1990  | December 17, 1990<br>Supplemental Petition to Expunge           | The Supplemental Petition to Expunge addressed the Director's comments in the Decision on Petition to Expunge dated November 27, 1990.   |
| January 31, 1991   | January 31, 1991<br>Decision on Petition                        | The Administrator expressly postponed the decision on the Supplemental Petition to Expunge ("The supplemental petition to expunge filed December 20, 1990 will be decided in due course.") <b><u>The PTO has not yet decided this petition.</u></b>                                |
| February 11, 1991  | February 11, 1991<br>Amendment [filed with Reply Brief]         | The appellant filed an amendment directed to the new ground of rejection with the Reply Brief in response to the statement in the decision on petition that "any amendment or argument in response to the new grounds of rejection would be considered upon filing a Reply Brief". |
| October 21, 1991   | October 21, 1991<br>Office Action                               | The examiner refused to consider the amendment, claiming that it was non-responsive.   |
| November 25, 1992  | November 25, 1992   | The appellant filed a second amendment in  |

|                                  |  |  |
|----------------------------------|--|--|
| 1992                             | Amendment  | response to the examiner's comments.   |
| August 25, 1992                  | August 25, 1992<br>Office Action                       | The Examiner refused to consider this second amendment claiming that it was non-responsive.  |
| May 16, 1994                     | May 16, 1994<br>Telephone<br>Conference Record         | The appellant telephoned the examiner regarding status. The examiner said that the file history was at the Board of Appeals and that he would get it back and generate a Supplemental Examiner's Answer.   |
| September 6, 1994                | September 6, 1994<br>Supplemental<br>Examiner's Answer | The examiner filed a Supplemental Examiner's Answer again refusing to consider the amendment as non-responsive   |
| October 6, 1994                  | October 6, 1994<br>Petition to Enter the<br>Amendment  | The appellant filed a petition to enter the two amendments. <b><u>The PTO has not yet decided this petition.</u></b>   |
| About early<br>November 1994     | November 20, 1994<br>Examiner Interview<br>Record      | The appellant telephoned the examiner about the status of the petition and the examiner told the appellant that the application file had been sent to the Board and that, "if a responding paper was filed, the case would have to be remanded by the Board to the Examiner for consideration of the responding paper. |
| November 17, 1994                | November 20, 1994<br>Examiner Interview<br>Record      | The appellant checked with the Board, but the clerk at the Board said that the application was in the abandoned files and that the applicant should check with the examiner.   |
| On or about<br>November 16, 1994 | November 20, 1994<br>Examiner Interview<br>Record      | The appellant met with the examiner and the examiner told the appellant that the application was not abandoned and that he would order the application from the abandoned files.   |
| February 14, 1995                | March 7, 1995<br>Telephone<br>Conference Record        | The appellant telephoned the examiner concerning status and was told to telephone the petitions examiner in the Commissioner's office concerning status.   |
| On or about<br>February 15, 1995 | March 7, 1995<br>Telephone<br>Conference Record        | The appellant telephoned the Commissioner's office and was told by the Commissioner's office that they would check into the matter.  |
| March 1, 1995                    | March 7, 1995<br>Telephone<br>Conference Record        | The appellant telephoned the Commissioner's office and was told by the Commissioner's office that the case was lost and that he would check into it.   |
| March 1, 1995                    | March 7, 1995<br>Telephone<br>Conference Record        | The appellant telephoned the Commissioner's office and was told by the Commissioner's office that the case was lost and that it was being searched for.  |
| March 7, 1995                    | March 7, 1995<br>Telephone                             | The appellant telephoned the examiner who stated that he thought that the case may have been   |

|                    |  |   |
|--------------------|--|---|
|                    | Conference Record  | sent to the abandoned files the same as the last time that it had been lost and that he would coordinate the search for it  |
| August 31, 1995    | August 31, 1995  | The appellant again telephoned the examiner for status and was again told that the application was in the Commissioner's office.  |
| August 31, 1995    | August 31, 1995<br>Telephone<br>Conference Record        | The appellant again telephoned the Commissioner's office and was told that the application had been found and was sent back to the Director's office.   |
| August 31, 1995    | August 31, 1995<br>Telephone<br>Conference Record        | The appellant telephoned the Director's office and was told that the Director's office did not have the application file and that the applicant should telephone the examiner to initiate another search. |
| August 31, 1995    | August 31, 1995<br>Telephone<br>Conference Record        | The appellant telephoned the examiner and was told that the examiner would initiate another search.   |
| November 9, 2004   | November 9, 2004<br>Request for Status                   | The appellant then again requested status   |
| January 20, 2005   | January 20, 2005<br>Petition for Action<br>on the Merits | The appellant petitioned for an action on the merits.   |
| March 28, 2007     | March 28, 2007<br>Petition for Action<br>on the Merits   | After receiving no decisions on the various outstanding petitions, he appellant again petitioned for an action on the merits.   |
| January 9, 2009    | Suspension of<br>Action                                  | The PTO did not respond to the two petitions for actions on the merits, but instead suspended action for six months.  |
| March 30, 2009     | March 30, 2009<br>Petition for Status                    | The appellant Petitioned for Status   |
| September 24, 2009 | September 24, 2009<br>Suspension of<br>Action            | The PTO dismissed the two petitions for actions on the merits and again suspended action for six months.  |
| August 2, 2010     | August 2, 2010<br>Suspension of<br>Action                | After another delay of almost a year, the PTO again dismissed the two petitions for actions on the merits that had previously been dismissed and again suspended action for six months.                   |
| March 23, 2011     | March 23, 2011   | The PTO then acknowledged that the file history was permanently lost, so the PTO requested that the appellant reconstruct the file for the PTO.   |
| June 23, 2011      | June 23, 2011<br>Reconstruction of<br>the record         | The appellant reconstructed the record with a complete and accurate copy of the applicant's record.   |
| November 28, 2012  | November 28, 2012<br>Notice of hearing                   | The Board scheduled an oral hearing for February 4, 2013, but with three outstanding petitions. The three outstanding petitions include (1) the Petition  |

|  |  |  |
|--|--|--|
|  |  | to Reopen Prosecution dated December 12, 1990, (2) the Supplemental Petition to Expunge dated December 17, 1990, and (3) the Petition to enter an amendment dated October 6, 1994. |
|--|--|--|

### **The Tortured Record In The Appealed Patent Application.**

The record of this patent application has been tortured by the PTO examining group by losing and finding the file numerous times, permanently losing the file and requiring the appellant to reconstruct it, entering significant new grounds of rejection in the Examiner's Answer and then denying the appellant his right to amend the claims in the Reply Brief, and failing to decide petitions so that this case can be heard by the Board. The most prominent issues are summarized below, but the Board needs to review the record from the notice of appeal in 1989 to the present to get the full impact of what has happened during this appeal.

The appellant filed a notice of appeal<sup>6</sup> and an Appeal Brief.<sup>7</sup> more than 23 years ago. The examiner then generated an Examiner's Answer which expressly stated significant new grounds of rejection.<sup>8</sup> The file was then lost and eventually found by the examining group.<sup>9</sup> The examiner told the applicant that this is the second time that the file has been lost and that the first time the file was lost it took six years to find it.<sup>10</sup> The appellant requested the examiner to reopen prosecution because of the new grounds of rejection,<sup>11</sup> but the examiner denied the request to reopen prosecution.<sup>12</sup> The appellant petitioned to reopen prosecution and to expunge

<sup>6</sup> Notice of Appeal dated August 1, 1989.

<sup>7</sup> Appeal Brief dated December 4, 1989.

<sup>8</sup> Examiner's Answer dated August 10, 1990 (Paper No. 54).

<sup>9</sup> Telephone Conference Record dated April 3, 1990.

<sup>10</sup> Telephone Conference Record dated April 3, 1990.

<sup>11</sup> Request to Reopen Prosecution dated August 16, 1990.

<sup>12</sup> Response to the request to reopen prosecution dated September 10, 1990 (Paper No. 57).

the record<sup>13</sup> but the Director denied the Petition To Reopen Prosecution and the Director elaborated on the denial and dismissed the Petition To Expunge.<sup>14</sup> The appellant petitioned to invoke the supervisory authority of the Commissioner regarding the decision on Petition to Reopen Prosecution<sup>15</sup> but the PTO has not yet decided this Petition to Reopen Prosecution. The appellant filed a Supplemental Petition to Expunge addressing the Director's comments.<sup>16</sup> The Administrator expressly postponed the decision on the Supplemental Petition to Expunge<sup>17</sup> and the PTO has not yet decided this Supplemental Petition to Expunge.

The decision on petition stated "any amendment or argument in response to the new grounds of rejection would be considered upon filing a Reply Brief."<sup>18</sup> In response thereto, the appellant filed an amendment directed to the new ground of rejection with the Reply Brief.<sup>19</sup> The amendment was presumably entered, but the examiner refused to consider the amendment, claiming that it was non-responsive.<sup>20</sup> The appellant filed a second amendment in response to the examiner's comments<sup>21</sup> and the examiner filed a Supplemental Examiner's Answer again refusing to consider the amendment as non-responsive.<sup>22</sup>

The Examiner refused to consider this second amendment claiming that it was non-responsive.<sup>23</sup> The appellant filed a petition to enter the first and second amendments<sup>24</sup> but the PTO has not yet decided this petition to enter these amendments. The appellant telephoned

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<sup>13</sup> Petition To Reopen Prosecution and Petition to Expunge dated September 24, 1990.

<sup>14</sup> Decision on petitions dated November 27, 1990 (Paper No. 60).

<sup>15</sup> Petition to Reopen Prosecution dated December 12, 1990.

<sup>16</sup> Supplemental Petition To Expunge dated December 17, 1990.

<sup>17</sup> Postponed decision on the Supplemental Petition To Expunge dated January 31, 1991.

<sup>18</sup> Decision on Petition dated January 31, 1991 (Paper No. 61).

<sup>19</sup> Amendment filed with the Reply Brief dated February 11, 1991.

<sup>20</sup> Paper No. 69 dated October 21, 1991.

<sup>21</sup> Amendment dated November 25, 1992.

<sup>22</sup> Supplemental Examiner's Answer dated September 6, 1994 (Paper No. 75).

<sup>23</sup> Paper No. 71 dated August 25, 1992.

the examiner about the status of the petition and the examiner told the appellant that the application file had been sent to the Board and that, "if a responding paper was filed, the case would have to be remanded by the Board to the Examiner for consideration of the responding paper."<sup>25</sup> The appellant checked with the Board, but the clerk at the Board said that the application was in the abandoned files.<sup>26</sup> The appellant met with the examiner and the examiner told the appellant that the application was not abandoned and that he would order the application from the abandoned files.<sup>27</sup> The appellant telephoned the examiner concerning status and was told to telephone the petitions examiner in the Commissioner's office concerning status.<sup>28</sup> The appellant telephoned the Commissioner's office and was told by the Commissioner's office that the case was lost and that it was being searched for.<sup>29</sup> The examiner stated that he thought that the case may have been sent to the abandoned files the same as the last time that it had been lost and that he would coordinate the search for it.<sup>30</sup>

The appellant again telephoned the examiner for status and was again told that the application was in the Commissioner's office.<sup>31</sup> The appellant again telephoned the Commissioner's office and was told that the application had been found and was sent to the Director's office, but the Director's office told the applicant that it did not have the application file and that the applicant should telephone the examiner.<sup>32</sup> The appellant again telephoned the

---

<sup>24</sup> Petition dated October 6, 1994.

<sup>25</sup> Examiner Interview Record dated November 20, 1994.

<sup>26</sup> Examiner Interview Record dated November 20, 1994.

<sup>27</sup> Examiner Interview Record dated November 20, 1994.

<sup>28</sup> Telephone Conference Record dated March 7, 1995.

<sup>29</sup> Telephone Conference Record dated March 7, 1995.

<sup>30</sup> Telephone Conference Record dated March 7, 1995.

<sup>31</sup> Telephone Conference Record dated August 31, 1995.

<sup>32</sup> Telephone Conference Record dated August 31, 1995.

examiner who told the appellant that he would initiate another search.<sup>33</sup> The appellant then again requested status,<sup>34</sup> petitioned for an action on the merits,<sup>35</sup> and, after waiting two more years, again petitioned for an action on the merits.<sup>36</sup> The PTO did not respond to the two petitions for actions on the merits, nor did it decide the other three outstanding petitions, but instead the PTO suspended action for six months.<sup>37</sup> The appellant Petitioned for Status<sup>38</sup> and, after another delay by the PTO of almost six months from the Petition for Status, the PTO dismissed the two petitions for actions on the merits and again suspended action for six months..<sup>39</sup> After another delay of almost a year, the PTO again dismissed the two petitions for actions on the merits and again suspended action for six months.<sup>40</sup> The PTO then acknowledged that the file history was permanently lost, so the PTO requested that the appellant reconstruct the file for the PTO.<sup>41</sup> The appellant reconstructed the record with a complete and accurate copy of the applicant's record.<sup>42</sup> The Board then scheduled an oral hearing for February 4, 2013,<sup>43</sup> but with three outstanding petitions.<sup>44</sup>

The long tortured scenario of the file history includes being lost by the PTO, being abandoned by the PTO, the examiner significantly changing his position on appeal with new grounds of rejection in the Examiner's Answer, the Examiner attempting to deprive the applicant

---

<sup>33</sup> Telephone Conference Record dated August 31, 1995.

<sup>34</sup> Request for Status dated November 9, 2004.

<sup>35</sup> Petition for an Action on the Merits dated January 20, 2005.

<sup>36</sup> Petition for an Action on the Merits dated March 28, 2007.

<sup>37</sup> Suspension of Action dated January 9, 2009.

<sup>38</sup> Petition for Status dated March 30, 2009.

<sup>39</sup> Suspension of Action dated September 24, 2009.

<sup>40</sup> Suspension of Action dated August 2, 2010.

<sup>41</sup> Request to reconstruct the record dated March 23, 2011 .

<sup>42</sup> Reconstruction of the record dated June 23, 2011 .

<sup>43</sup> Notice of hearing dated November 28, 2012.



of his right to respond to the new grounds of rejection in the Examiner's Answer, the examining group losing the file history time and again, and then after a permanent loss requesting reconstruction of the file history by the appellant.

The hearing on this appeal is premature because the appellant had a right to amend the claims in response to explicit new grounds of rejection in the Examiner's Answer, because the examiner did not consider this amendment on the merits, because a petition directed to this amendment has not yet been decided, and because two other petitions have not yet been decided.<sup>45</sup>

As stated by the examiner, because the application file was at the Board, "if a responding paper was filed, the case would have to be remanded by the Board to the Examiner for consideration of the responding paper."<sup>46</sup> This action is respectfully requested for the three undecided petitions.<sup>47</sup>

As an alternative to a decision on petition challenging the refusal of the examiner to reopen prosecution or to consider the amendments in response to new grounds of rejection in the Examiner's Answer, the appellant requests that the Board remand the application to the examiner to expeditiously address the amendments on the merits.

---

<sup>44</sup> The three outstanding petitions include (1) the Petition to Reopen Prosecution dated December 12, 1990, (2) the Supplemental Petition to Expunge dated December 17, 1990, and (3) the Petition to enter an amendment dated October 6, 1994.

<sup>45</sup> The three outstanding petitions include (1) the Petition to Reopen Prosecution dated December 12, 1990, (2) the Supplemental Petition to Expunge dated December 17, 1990, and (3) the Petition to enter an amendment dated October 6, 1994.

<sup>46</sup> Examiner Interview Record dated November 20, 1994.

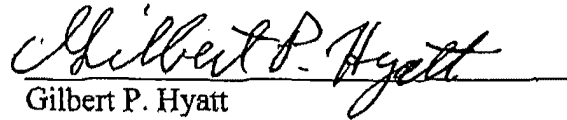
<sup>47</sup> The three outstanding petitions include (1) the Petition to Reopen Prosecution dated December 12, 1990, (2) the Supplemental Petition to Expunge dated December 17, 1990, and (3) the Petition to enter an amendment dated October 6, 1994.

Please charge any fees associated with the papers transmitted herewith to Deposit Account No. 08-3626. A Declaration claiming small entity status has been filed herein.

CERTIFICATION OF TRANSMISSION:: I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (FAX NO. 571-273-0299 and FAX NO. 571-273-8300) on December 19, 2012.

Respectfully submitted,

Dated: December 19, 2012



Gilbert P. Hyatt  
Registration No. 27,647  
P.O. Box 81230  
Las Vegas, NV 89180  
Phone (702) 871-9899

## **Exhibit 20. Issue Notice of Pat. No. 5,625,761**



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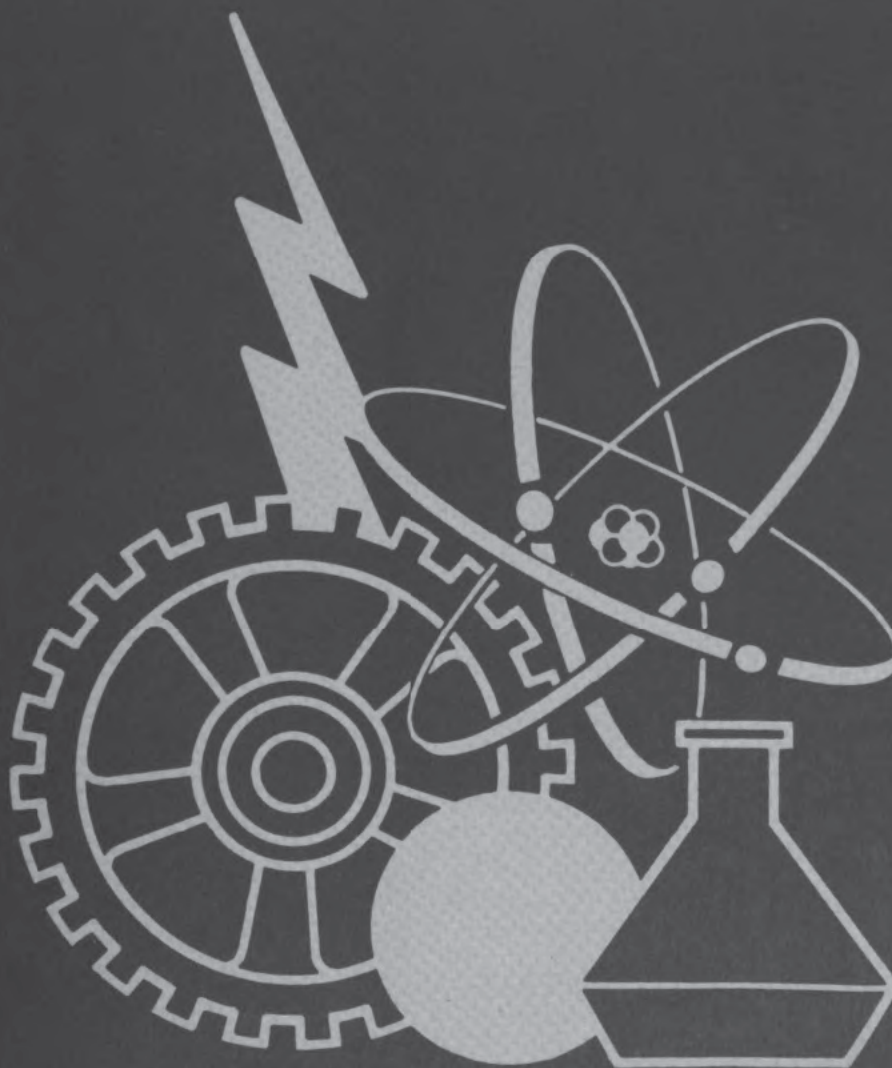
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UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENTS

April 29, 1997



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# OFFICIAL GAZETTE of the UNITED STATES PATENT AND TRADEMARK OFFICE

April 29, 1997

Volume 1197

Number 5

## CONTENTS

|   | Page        |
|---|-------------|
| Patent and Trademark Office Notices   |             |
| Patent Cooperation Treaty (PCT) Information .....                                     | 1197 OG 95  |
| Notice of Maintenance Fees Payable .....  | 1197 OG 95  |
| Notice of Expiration of Patents Due to Failure to Pay Maintenance Fee .....           | 1197 OG 96  |
| Patents Reinstated Due to the Acceptance of a Late Maintenance Fee From 2/07/97 ..... | 1197 OG 103 |
| Patents Reinstated Due to the Acceptance of a Late Maintenance Fee From 2/14/97 ..... | 1197 OG 103 |
| Reissue Applications Filed .....  | 1197 OG 103 |
| Requests for Reexamination Filed .....  | 1197 OG 104 |
| Notice of Expiration of Trademark Registrations Due to Failure to Renew .....         | 1197 OG 104 |
| Service by Publication .....  | 1197 OG 105 |
| Errata .....  | 1197 OG 106 |
| Disclaimers .....   | 1197 OG 106 |
| Certificates of Correction .....  | 1197 OG 106 |
| Meeting of the Public Advisory Committee for Trademark Affairs .....                  | 1197 OG 107 |
| Summary of Final Decisions Issued by the Trademark Trial and Appeal Board .....       | 1197 OG 109 |
| Special Boxes for Mail .....  | 1197 OG 112 |
| Reference Collections of U.S. Patents Available for Public Use in                     |             |
| Patent Depository Libraries .....   | 1197 OG 114 |
| Patent Examining Corps .....  | 1197 OG 116 |
| Condition of Trademark Applications .....   | 1197 OG 117 |
| Reexaminations .....  | 2879        |
| Reissue Patents Granted (35,495) .....  | 2881        |
| Plant Patents Granted (9,871) .....   | 2883        |
| Patents Granted   |             |
| General and Mechanical (5,623,728) .....  | 2885        |
| Chemical (5,624,465) .....  | 3139        |
| Electrical (5,625,137) .....  | 3329        |
| Design Patents Granted (378,947) .....  | 3595        |
| Index of Patentees .....  | PI 1        |
| Indices of Reissue, Reexaminations, Design and Plant Patents .....                    | PI 105      |
| Classification of   |             |
| Patents (Including Reissues and Reexaminations) .....                                 | PI 109      |
| Designs and Plants Applications .....   | PI 113      |
| Geographical Index of Residence of Inventors  |             |
| Patents (Including Reissues and Reexaminations) .....                                 | PI 115      |
| Designs and Plant Applications .....  | PI 117      |
| Change of Address Form .....  | PI 119      |
| Subscription Order Form .....   | PI 121      |

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- a plurality of three-dimensional address generators for generating addresses to read out the data from said three-dimensional memory; and
- a plurality of pixel calculators for processing the read-out data from said three-dimensional memory by the depth queuing method.

5,625,761

# TRANSFORM PROCESSOR SYSTEM HAVING A LOWER RESOLUTION HIGHER SPEED TRANSFORM PROCESSOR IN COMBINATION WITH A HIGHER RESOLUTION LOWER SPEED TRANSFORM PROCESSOR

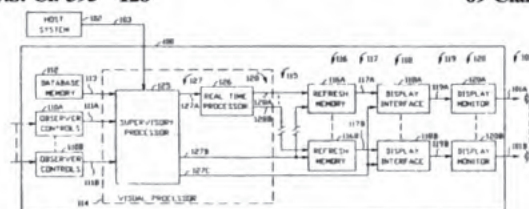
Gilbert P. Hyatt, P.O. Box 81230, Las Vegas, Nev. 89180

Continuation of Ser. No. 504,691, Jun. 15, 1983, Pat. No. 5,487,172, which is a continuation-in-part of Ser. No. 879,293, Nov. 24, 1969, abandoned, Ser. No. 101,881, Dec. 28, 1970, abandoned, Ser. No. 134,958, Apr. 19, 1971, abandoned, Ser. No. 135,040, Apr. 19, 1971, Ser. No. 230,872, Mar. 1, 1972, Pat. No. 4,531,182, Ser. No. 232,459, Mar. 7, 1972, Pat. No. 4,370,720, Ser. No. 246,867, Apr. 24, 1972, Pat. No. 4,310,878, Ser. No. 288,247, Sep. 11, 1972, Pat. No. 4,121,284, Ser. No. 291,394, Sep. 22, 1972, Pat. No. 4,396,976, Ser. No. 302,771, Nov. 1, 1972, Ser. No. 325,941, Jan. 22, 1973, Pat. No. 4,060,848, Ser. No. 366,714, Jun. 4, 1973, Pat. No. 3,986,022, Ser. No. 339,817, Mar. 9, 1973, Pat. No. 4,034,276, Ser. No. 490,816, Jul. 22, 1974, Pat. No. 4,209,853, Ser. No. 476,743, Jun. 5, 1974, Pat. No. 4,364,110, Ser. No. 522,559, Nov. 11, 1974, Pat. No. 4,209,852, Ser. No. 550,231, Feb. 14, 1975, Pat. No. 4,209,843, Ser. No. 727,330, Sep. 27, 1976, abandoned, Ser. No. 730,756, Oct. 7, 1976, abandoned, Ser. No. 752,240, Dec. 20, 1976, abandoned, Ser. No. 754,660, Dec. 27, 1976, Pat. No. 4,486,850, Ser. No. 801,879, May 31, 1977, Pat. No. 4,144,583, Ser. No. 812,285, Jul. 1, 1977, Pat. No. 4,371,953, Ser. No. 844,765, Oct. 25, 1977, Pat. No. 4,523,290, Ser. No. 849,733, Nov. 9, 1977, abandoned, Ser. No. 849,812, Nov. 9, 1977, Ser. No. 860,277, Dec. 13, 1977, Ser. No. 860,278, Dec. 13, 1977, Pat. No. 4,471,385, Ser. No. 860,253, Dec. 14, 1977, abandoned, Ser. No. 860,252, Dec. 14, 1977, abandoned, Ser. No. 860,257, Dec. 14, 1977, Pat. No. 4,371,923, Ser. No. 874,446, Feb. 2, 1978, Pat. No. 4,342,906, Ser. No. 889,301, Mar. 23, 1978, Pat. No. 4,322,819, Ser. No. 948,378, Oct. 4, 1978, abandoned, Ser. No. 160,871, Jun. 19, 1980, Pat. No. 4,445,189, Ser. No. 160,872, Jun. 19, 1980, Pat. No. 4,491,930, Ser. No. 169,257, Jul. 16, 1980, Pat. No. 4,435,732, Ser. No. 223,959, Jan. 12, 1981, abandoned, Ser. No. 332,501, Jan. 22, 1981, abandoned, Ser. No. 425,136, Sep. 27, 1982, Pat. No. 4,739,396, Ser. No. 425,135, Sep. 27, 1982, Pat. No. 4,551,816, and Ser. No. 425,131, Sep. 27, 1982, Pat. No. 4,686,655. This application Sep. 20, 1991, Ser. No. 763,395

Int. Cl. G06F 15/00

U.S. Cl. 395—128

69 Claims



1. A transform processor system comprising:

- a first transform processor generating first transforms having a first resolution;
- a second transform processor generating second transforms having a second resolution that is better than the first resolution; and
- a third processor coupled to the first transform processor and to the second transform processor and improving the resolution of the first transforms in response to the second transforms.

5,625,762

# METHOD FOR EXTRACTING THREE-DIMENSIONAL COLOR VECTOR

Yuri Takizawa, Machida; Shinichiro Miyaoka, Kawasaki; Makoto Kato, Yokohama, and Makoto Nohmi, Kawasaki, all of Japan, assignors to Hitachi, Ltd., Tokyo, Japan

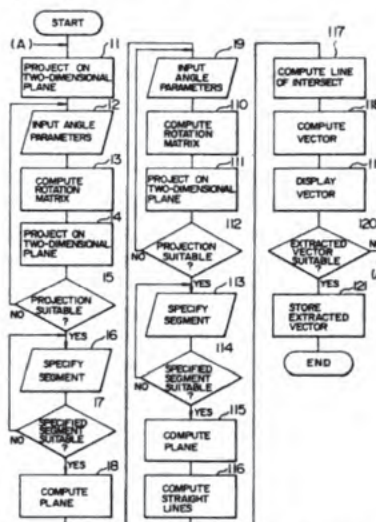
Filed May 10, 1991, Ser. No. 698,122

Claims priority, application Japan, May 11, 1990, 2-119827

Int. Cl. G06T 7/00

U.S. Cl. 395—131

9 Claims



1. A method for extracting a three-dimensional color vector approximately representing a cluster of plotted points in a three-dimensional RGB primary color space, said plotted points indicating the distribution of the R, G, B components of color pixels of a specific object in a color image, the method comprising the steps of:

designating a direction of a first projection plane;

in response to said step of designating the direction of said first projection plane, projecting said plotted points in said three-dimensional RGB color space on said first projection plane; displaying a first projection image of said first projection plane on a display;

designating a first line segment on said display, said first line segment expressing the feature of a distribution of said plotted points projected on said first projection image;

in response to said step of designating a first line segment on said display, determining a first equation expressing a first designated plane in said three-dimensional RGB primary color space, said first designated plane being perpendicular to said first projection plane, wherein the projection of said first designated plane on said first projection plane is said first line segment;

designating the direction of a second projection plane;

in response to said step of designating the direction of a second projection plane, projecting said plotted points in said three-dimensional RGB primary color space onto said second projection plane;

displaying a second projection image of said second projection plane on said display;

designating a second line segment on said display, said second line segment expressing the feature of the distribution of said plotted points projected on said second projection image;

in response to said step of designating a second line segment on said display, calculating a second equation expressing a second designated plane in said three-dimensional RGB primary color space, said second designated plane being perpendicular to said second projection plane, wherein the projection of said second designated plane on said second projection plane is said second line segment; and

extracting said three-dimensional color vector by extracting a line of intersection of said first designated plane and said second designated plane from said first equation and said

12 20 96

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PTO UTILITY GRANT

Paper Number 43

### The Commissioner of Patents and Trademarks

*Has received an application for a patent for a new and useful invention. The title and description of the invention are enclosed. The requirements of law have been complied with, and it has been determined that a patent on the invention shall be granted under the law.*

*Therefore, this*

### United States Patent

*Grants to the person(s) having title to this patent the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States of America or importing the invention into the United States of America for the term set forth below, subject to the payment of maintenance fees as provided by law.*

*If this application was filed prior to June 8, 1995, the term of this patent is the longer of seventeen years from the date of grant of this patent or twenty years from the earliest effective U.S. filing date of the application, subject to any statutory extension.*

*If this application was filed on or after June 8, 1995, the term of this patent is twenty years from the earliest effective U.S. filing date of the application, subject to any statutory extension.*



*Bence Lehman*

Commissioner of Patents and Trademarks

*Melvinia Gary*

Attest

## **Exhibit 21. Withdrawal from issue**





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**Patent and Trademark Office**  
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**OFFICE OF  
PATENT PUBLICATION**

GILBERT P. HYATT  
P.O. BOX 81230  
LAS VEGAS, NV. 89180

In re Application of  
Gilbert P. Hyatt  
Application No. 07/763,395  
Filed: Sept 20, 1991  
Attorney Docket No. 342

NOTICE

The purpose of this communication is to inform you that the above - identified application, which has received a patent number or an issue date, is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn for the following purpose: to reopen prosecution. This withdrawal was requested by the Group Director. Any questions concerning this withdrawal should be addressed to the Group Director at (703) 305-9700..

This application is being returned to the Office of the Director of Group 2300.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-8594.

Karna Cooper  
Paralegal Specialist  
Office of the Director  
Office Patent Publication

## **Exhibit 22. Petitions for action in the Docket No. 342 application**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )

GILBERT P. HYATT )

Serial No. 07/763,395 )

Docket No. 342 )

Filed: September 20, 1991 )

For: A TRANSFORM PROCESSOR SYSTEM HAVING A )  
LOWER RESOLUTION HIGHER SPEED TRANSFORM )  
PROCESSOR IN COMBINATION WITH A HIGHER )  
RESOLUTION LOWER SPEED TRANSFORM PROCESSOR )

PETITION FOR AN ACTION ON THE MERITS  
UNDER 37 CFR 1.181(A)(3)

Hon. Assistant Commissioner  
For Patents  
Washington, D.C. 20231

Sir:

The Applicant respectfully petitions the Commissioner for his intervention to direct the Examiner to expeditiously provide the Applicant with an Action on the merits.

The PTO requires an expeditious response to amendments (MPEP 708, last paragraph):

All amendments before final rejection should be responded to within two months of receipt.

Further, the PTO requires that the instant application be advanced out of turn for examination for the following reasons (MPEP 708.01, item I):

Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years.

The instant application meets both of these criterion, it has been pending more that 5 years and it has an effective pendency of more than 5 years.

No action has been received in the instant application in more than a year.

The Applicant filed a Request For Status in the instant application dated November 9, 2004 but the Examiner has not responded thereto.

In view of the above, the Commissioner is hereby petitioned to direct the Examiner to immediately prepare an action in the instant application or, alternatively, to pass the instant application to issue.

Because this petition seeks to invoke the Supervisory Authority of the Commissioner under 37 CFR 1.181(a)(3), a petition fee is not required and thus a fee authorization is not needed.

Respectfully submitted,

Dated: January 20, 2005



Gilbert P. Hyatt  
Registration No. 27,647  
P.O. Box 81230  
Las Vegas, NV 89180  
Phone (702) 871-9899



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )

GILBERT P. HYATT )

Serial No. 07/763,395 )

Docket No. 342 )

Filed: September 20, 1991 )

For: A TRANSFORM PROCESSOR SYSTEM HAVING A )  
LOWER RESOLUTION HIGHER SPEED TRANSFORM )  
PROCESSOR IN COMBINATION WITH A HIGHER )  
RESOLUTION LOWER SPEED TRANSFORM PROCESSOR )

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**SEP 05 2007**

**Technology Center 2100**

PETITION FOR AN ACTION ON THE MERITS  
UNDER 37 CFR 1.181(A)(3)

Hon. Commissioner For Patents  
P.O. Box 1450, Alexandria, VA 22313-1450  
Sir:

The Applicant respectfully petitions the Commissioner for his intervention to direct the Examiner to expeditiously provide the Applicant with an Action on the merits.

The PTO requires an expeditious response to amendments (MPEP 708, last paragraph):

All amendments before final rejection should be responded to within two months of receipt.

Further, the PTO requires that the instant application be advanced out of turn for examination for the following reasons (MPEP 708.01, item I):

Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years.

The instant application meets both of these criteria, it has been pending more than 5 years and it has an effective pendency of more than 5 years.

In view of the above, the Commissioner is hereby petitioned to direct the Examiner to immediately prepare an action in the instant application or, alternatively, to pass the instant application to issue.

The Applicant makes note that a decision has been rendered by the Federal Circuit in *Hyatt v. Dudas*, Appeal No. 2006-1171, on June 28, 2007 reversing the decision of the District Court.

Because this petition seeks to invoke the Supervisory authority of the Commissioner under 37 CFR 1.181(a)(3), a petition fee is not required and thus a fee authorization is not needed.

CERTIFICATION OF MAILING BY EXPRESS MAIL: I hereby certify that this correspondence is being deposited with the United States Postal Service with Express Mail post office to addressee service under 37 CFR 1.10, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 with the express mail label number EV 339845925 on August 28, 2007.

Dated: August 28, 2007

Respectfully submitted,



Gilbert P. Hyatt  
Registration No. 27,647  
P.O. Box 81230  
Las Vegas, NV 89180  
Phone (702) 871-9899



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

GILBERT P. HYATT

Serial No. 07/763,395

Docket No. 342

Filed: September 20, 1991

For: A TRANSFORM PROCESSOR SYSTEM HAVING A  
LOWER RESOLUTION HIGHER SPEED TRANSFORM  
PROCESSOR IN COMBINATION WITH A HIGHER  
RESOLUTION LOWER SPEED TRANSFORM PROCESSOR

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**APR 07 2009**

**OFFICE OF PETITIONS**

**PETITION FOR AN ACTION ON THE MERITS**  
**UNDER 37 CFR 1.181(A)(3)**

Mail Stop Petition

Hon. Commissioner For Patents

P.O. Box 1450, Alexandria, VA 22313-1450

Sir:

The Applicant respectfully petitions the Commissioner for his intervention to direct the Examiner to expeditiously provide the Applicant with an Action on the merits.

The PTO requires an expeditious response to amendments (MPEP 708, last paragraph):

All amendments before final rejection should be responded to within two months of receipt.

Further, the PTO requires that the instant application be advanced out of turn for examination for the following reasons (MPEP 708.01, item I):

Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years.

The instant application meets both of these criteria, it has been pending more than 5 years and it has an effective pendency of more than 5 years.

In view of the above, the Commissioner is hereby petitioned to direct the Examiner to immediately prepare an action on the merits in the instant application or, alternatively, to pass the instant application to issue.

The Applicant makes note that the Federal Circuit has affirmed the district court with a decision dated December 23, 2008 in appeals 2007-1050, -1051, -1052, -1053.

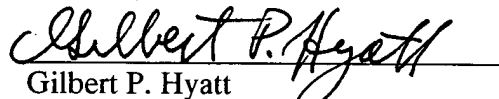
The Applicant further requests status of the instant application.

Because this petition seeks to invoke the Supervisory authority of the Commissioner under 37 CFR 1.181(a)(3), a petition fee is not required and thus a fee authorization is not needed.

CERTIFICATION OF MAILING BY EXPRESS MAIL: I hereby certify that this correspondence is being deposited with the United States Postal Service with Express Mail post office to addressee service under 37 CFR 1.10, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 with the express mail label number EV 323877664 on March 30, 2009.

Dated: March 30, 2009

Respectfully submitted,



Gilbert P. Hyatt  
Registration No. 27,647  
P.O. Box 81230  
Las Vegas, NV 89180  
Phone (702) 871-9899



# Exhibit B











IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

GILBERT P. HYATT .  
Plaintiff, .  
vs. . Docket No. CV 05-2310-RCL,  
09-1864, 09-1869, 09-1872  
JOSEPH MATAL . Washington, D.C.  
October 12, 2017  
Defendant. .  
. . . . .x 10:11 a.m. - Volume 4

TRANSCRIPT OF BENCH TRIAL - DAY 4

BEFORE THE HONORABLE SENIOR JUDGE ROYCE C. LAMBERTH

UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: Andrew M. Grossman, Esquire  
Paul M. Levine, Esquire  
Mark W. DeLaquil, Esquire  
BAKER HOSTETLER  
Washington Square  
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6 Proceedings recorded by machine shorthand, transcript  
7 produced by computer-aided transcription.  
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**TABLE OF CONTENTS****WITNESSES****On behalf of the Defendant:****Direct      Cross      Redirect****GREGORY MORSE**

|                   |   |    |
|-------------------|---|----|
| (By Mr. Levine )  | 4 |    |
| (By Mr. McBride ) |   | 34 |

**STEPHEN G. KUNIN**

|                   |    |  |
|-------------------|----|--|
| (By Mr. Warrick ) | 62 |  |
|-------------------|----|--|

**E X H I B I T S****Plaintiff's Exhibit Number                      Marked                      Admitted**

|                   |  |    |
|-------------------|--|----|
| Nos. 9A, 310, 311 |  | 21 |
| Nos. 433, 442     |  | 25 |
| Nos. 2, 491       |  | 34 |

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**P R O C E E D I N G S**

THE DEPUTY CLERK: We're resuming bench trial, day four in the Gilbert Hyatt v. Matal, et al matter.

THE COURT: Be seated. The witness may resume the stand.

MR. GROSSMAN: Your Honor, if I may, I have one brief housekeeping measure at the outset?

THE COURT: Sure.

MR. GROSSMAN: Under the existing scheduling order the pretrial statements for the merits at trial are due tomorrow. We had noted at the pretrial conference that given that we are in trial at this point, it is a little bit inconvenient for the parties to file those tomorrow. And we were hoping that that date could be postponed.

THE COURT: It will be postponed. We'll set a new date at a later point.

MR. GROSSMAN: Thank you, your Honor.

**CROSS-EXAMINATION** [Cont'd]

BY MR. LEVINE:

Q Good morning, Mr. Morse. How are you?

A Good morning.

Q All right. Yesterday you walked us through three court litigations. You recall that testimony?

A I do.

Q And that was the Kappos v. Hyatt decision and what we

1 Q Now Mr. Levine said that Mr. Hyatt has spent over  
2 \$7 million dollars in fees to PTO. Do you know  
3 approximately how much the PTO has paid just to your group  
4 of examiners while you've been there for the past four, five  
5 years?

6 A Well the fees are not -- it's not -- the fees are  
7 designed to recover in the aggregate costs, the costs of the  
8 system. So it's not a fee for servicing and we're not  
9 sending bills based on the number of hours that the examiner  
10 spent. But I have since 2012, I've had 12 GS15 examiners.  
11 Their pay starts at at least \$120,000. I think just in  
12 salary costs it's about \$2 million dollars a year, so this  
13 is an expensive process all around.

14 Q So over the past five years approximately how much has  
15 PTX expended in just the examiners' salaries?

16 A It's about \$10 million.

17 Q Ten million. That doesn't include any of the examiner  
18 time before your group got started?

19 A No, no it doesn't. But the fees are designed to  
20 recover the aggregate costs of everyone's behavior and it's  
21 mostly driven by average behavior.

22 Q Okay. Understand. But the PTO has expended a lot of  
23 people and resources and money in department salaries trying  
24 to examine Mr. Hyatt's applications?

25 A Yes.